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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Report on the situation of human rights in Cuba, prepared by the Special Rapporteur, Mr. Carl-Johan Groth, in accordance with Commission resolution 1993/63

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I. INTRODUCTION

1. At its forty-ninth session, the Commission on Human Rights adopted resolution 1993/63, entitled "Situation of human rights in Cuba", on 10 March 1993. In that resolution, the Commission decided to extend for another year the mandate conferred on the Special Rapporteur under resolution 1992/61 of 3 March 1992, whereby Mr. Carl-Johan Groth had been appointed Special Rapporteur.

2. In resolution 1993/63, approved by the Economic and Social Council in its decision 1993/274, the Special Rapporteur was requested to submit a report to the Commission at its fiftieth session, as well as an interim report which was submitted to the General Assembly at its forty-eighth session (A/48/562). For its part, the General Assembly adopted resolution 48/142 entitled "Situation of human rights in Cuba", in which it decided to continue the consideration of the question at the forty-ninth session. The present report is basically an update of the interim report.

3. In resolution 1993/63, the Commission also requested the Special Rapporteur to maintain direct contact with the Government and citizens of Cuba, and, noting that the Government of Cuba had failed to cooperate with the Special Rapporteur, called on it to permit him the opportunity to carry out his mandate in full, in particular by allowing him to visit Cuba.

4. Pursuant to his mandate, the Special Rapporteur, on 24 August 1993, addressed a letter to the Permanent Representative of Cuba to the United Nations Office at Geneva requesting the collaboration of the Cuban Government and an opportunity to visit the country. To date, there has been no answer to the letter, which is reproduced in appendix I to this report.

5. Also pursuant to his mandate, the Special Rapporteur tried to obtain information from a wide variety of sources, and expressed his willingness to receive any person or group wishing to meet him. For that purpose, and bearing in mind that most of the sources of information on the situation of human rights in Cuba are in the United States of America, he travelled to New York and Washington from 15 to 22 September 1993, where he had the opportunity to meet individuals and representatives of the following organizations and groups: the Cuban Committee for Human Rights, the Committee to Support the Human Rights Movement in Cuba, the Cuban Women's Foundation, the Foundation for Human Rights in Cuba, Freedom House, the Cuban Workers Trade Union, Americas Watch, Areito Review, the Cuban-American Committee of New Jersey, the Cuban Christian Democratic Party, the World Federation of Cuban Political Prisoners, the Cuban Human Rights Party, the Centre for Human Rights, the Cuban Committee against the Blockade, the Puerto Rican Group against the Blockade and Inter-American Dialogue. The Special Rapporteur also had a working session in Madrid on 24 September, where he had occasion to meet representatives of the Association for Continental Peace (ASOPAZCO), the Cuban Liberal Union and a group of 13 former Cuban prisoners exiled in Spain. During the current year, the Special Rapporteur also had an opportunity to meet representatives of the Coordinating Body for Human Rights Organizations in Cuba, and received written material - in addition to that received from the

above-mentioned sources - from such sources as the Information Bureau of the Cuban Human Rights Movement and Amnesty International, as well as a number of communications sent to the Special Rapporteur by Cuban citizens residing in Cuba.

II. CIVIL AND POLITICAL RIGHTS

6. In analysing the information received regarding the situation of human rights, the Special Rapporteur has taken as a point of reference the relevant international instruments and in particular wishes to keep in mind some paragraphs of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993. 1/ Firstly, in paragraph 1 of part I of the Declaration, the Conference reaffirmed "the solemn commitment of all States to fulfil their obligations to promote universal respect for, and observance and protection of, all human rights and fundamental freedoms for all in accordance with the Charter of the United Nations, other instruments relating to human rights, and international law. The universal nature of these rights and freedoms is beyond question".

7. For its part, paragraph 5 states that:

> "All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms."

Lastly, paragraph 8 reads:

> "Democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing. Democracy is based on the freely expressed will of the people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives. In the context of the above, the promotion and protection of human rights and fundamental freedoms at the national and international levels should be universal and conducted without conditions attached. The international community should support the strengthening and promoting of democracy, development and respect for human rights and fundamental freedoms in the entire world."

8. On the basis of these provisions, the Special Rapporteur arrived at the following conclusions. No matter what form it takes, a country's political system cannot be maintained if it means that the human rights and fundamental freedoms of citizens defined in international instruments are being systematically violated. Moreover, the interpretation of these rights cannot be the sole prerogative of the authorities of the State or of monolithic Governments which control the channelling of the alleged interests of various sectors of society. The Special Rapporteur is also of the opinion that advances in the economic and social field constitute a constructive basis for

advances in the field of civil and political rights. As stated in the Vienna Declaration and Programme of Action, advances in one area of human rights, specifically economic and social rights, cannot serve as justification for serious shortcomings in the protection and promotion of another category of rights, namely civil and political rights. Given their indivisibility, advances in the two areas must be parallel, otherwise the rights to which priority has been given might in the long term be diminished by the rights formerly minimized.

A. Legal and constitutional framework

9. Certain provisions of the current Constitution are crucial to an understanding of the background to civil and political rights. Article 1 proclaims that "Cuba is a socialist State of workers", and article 5 declares that "the Communist Party of Cuba, inspired by José Martí and Marxist-Leninist in nature, the organized vanguard of the Cuban nation, is the supreme leading force in society and the State, organizing and guiding the common efforts towards the noble goals of building socialism and progressing towards the communist society". According to article 62, "none of the freedoms which are recognized for citizens can be exercised contrary to what is established in the Constitution and the law, or contrary to the existence and objectives of the socialist State, or contrary to the decision of the Cuban people to build socialism and communism. Violations of this principle are punishable".

10. While the Constitution contains several provisions aimed at guaranteeing such basic rights as freedom of speech and freedom of the press (art. 53), freedom of assembly, freedom to demonstrate and freedom of association (art. 54), and the right to file complaints with and send petitions to the authorities (art. 63), it is obvious that those rights may be exercised only when, in the eyes of the authorities, that would not involve any challenge to the status quo or to the official ideology.

11. In this connection, mention should also be made of the constitutional precepts governing mass organizations. Article 6 declares that "the Union of Communist Youth, an organization of Cuban youth in the vanguard, is recognized and encouraged by the State in its primary task of promoting active participation by the young masses in the building of socialism". Likewise, article 7 stipulates that "the Cuban Socialist State recognizes and encourages the mass social organizations [...] which comprise various sectors of the population, represent the specific interests of the same and involve them in the tasks of building, consolidating and defending socialist society". These precepts establish beyond all doubt the ideological framework within which new associations may be formed. Any association which, in the opinion of the authorities, fails to meet that standard will have its application for registration denied or, as happens more often in practice, ignored.

12. A logical corollary to those constitutional precepts is the punishment of any act that can in any way be contrary to the status quo. The 1987 Penal Code thus has among its objectives "helping to develop among all citizens an awareness of the need to respect the socialist legal order, do their duty and properly observe the norms of socialist coexistence" (art. 1). The Code also specifies that "the purpose of the penalty is not only to punish the offence, but also to provide re-education in the principles ... of respect for the

norms of socialist coexistence" (art. 27). The Code goes on to identify a number of acts as offences against the internal security of the State, stipulating heavy prison sentences. In addition, under article 44, the court may, at its discretion, order confiscation of property as punishment for offences against the security of the State. Some of those offences, e.g. rebellion and sedition, involve the use of violence or force of arms. Others, however, such as enemy propaganda, do not involve the use of any violent means. Among those liable to punishment is any person who, by means of spoken, written or any other form of propaganda, incites others to take action against the social order or the socialist State, or who produces, distributes or possesses such propaganda. Furthermore, in the context of offences against the security of the State, preparatory acts are punishable under article 12. Article 72 of the Code deals with the concept of "dangerous state", which it defines as "a person's special proclivity to commit offences as demonstrated by conduct that is manifestly contrary to the norms of socialist morality"; it provides that any person who might develop a proclivity to commit offences, because of connections or relations with persons who are potentially dangerous to the social, economic and political order of the socialist State, shall be warned by the police authorities. It also states that preventive security measures involving, inter alia, supervision by National Revolutionary Police bodies may be taken against a person declared to be in a dangerous state.

13. The Penal Code's definition of other acts as offences - e.g. unlawful association, assembly and demonstration (arts. 208 and 209, which lay down penalties for associate or affiliate members, as well as promoters or directors of unregistered organizations), possession of illegal printed matter (art. 210) or contempt (art. 144) - is also likely to be applied to conduct which in any way implies the expression of opinions critical of the official ideology or of the actions of the authorities.

14. To illustrate this point, the Special Rapporteur would like to mention the provisional conclusions reached by the prosecutor in the October 1992 trial on the charge of enemy propaganda of Sebastián Arcos Bergnes, a leading member of the Cuban Committee for Human Rights, 2/ in order to show what type of action may be punishable:

> "Sebastián Arcos Bergnes, without regard for the law, sent information to stations based outside the country, for the purpose of contributing to the campaign to discredit Cuba.
>
> "In breach of the disciplinary code of the Combinado del Este Prison, he gave handwritten notes to counter-revolutionary inmates, with the aim of helping to incite opposition to the Cuban social system.
>
> "During a search at the Combinado del Este Prison on 11 December 1991 ... pieces of paper with handwriting in ink ... were found on the prisoner. On one piece of paper ... the accused, Sebastián Arcos Bergnes, had written, and I quote: 'We are making continual demands for democratic changes to the regime, and we are trying to develop the necessary national consciousness so as to be able to bring about those changes through peaceful, but firm, civil resistance among the population. That is our main task, our educational task, our present

task ... then demand lunch, transport, private car; then amnesty, freedom of expression, freedom of association and, finally, democracy!' In other words, use systematic propaganda to promote action against our social system."

15. The Special Rapporteur does not consider it part of his mandate to express opinions about the ideological principles embodied in the Constitution. His comments relate to the restrictions which the interpretation and implementation of those principles by the authorities may place on the basic rights of the population.

B. Most frequent patterns of violations and specially vulnerable groups

16. On the basis of direct testimony, contacts with analysts of the Cuban experience and abundant written documentation, the Special Rapporteur has been able to note the excessive control exerted over the population via the institutional machinery. This has resulted in a systematic violation of, inter alia, the principle of non-discrimination on political grounds and the right to freedom of opinion and expression. This control is applied in the day-to-day life of every citizen - in the workplace, at educational institutions and even at the neighbourhood level. Education itself also has an ideological orientation, to judge from the Constitution, article 38 of which states that parents have a duty to contribute actively to the all-round education and training of their children as useful citizens prepared for life in a socialist society, whereas article 39 stipulates that the State bases its educational and cultural policy on Marxist ideology, and promotes patriotic education and communist training of the new generations.

17. According to the information received, the so-called "cumulative school record" and "employment record" make it possible to monitor the ideological integration of individuals virtually throughout their lives, by including not only purely academic or employment-related material, but also information regarding their membership in mass organizations, functions performed in such organizations, level of activism, ideological features of family members, misconduct, etc. Often individuals are expelled from educational institutions, dismissed from their jobs or subjected to some form of discrimination for expressing, in some way, views inconsistent with the official ideology.

18. The Committee of Experts on the Application of Conventions and Recommendations of the International Labour Organisation, considered some of these questions in connection with the application of Convention No. 111 concerning Discrimination in respect of Employment and Occupation, ratified by Cuba in 1965, in the light of comments made by non-governmental organizations alleging discrimination based on political opinion, in access to education, training and employment. Since this Committee is a body with which the Government has maintained a dialogue, the Special Rapporteur considers it important to make full reference to its consideration of the case of Cuba.

19. Among other comments, the Committee of Experts pointed out in 1992 that the Regulations for the Application of Employment Policy, like the Labour Code, defined the labour record as a document that contains data and

particulars of each worker's job and that the employing agency is under an obligation to prepare, update and maintain the record. Yet according to resolution No. 590/1980 of the State Committee on Labour and Social Security (CETSS), distinctions which do not constitute a labour merit, but which are conferred by such bodies as mass organizations or official institutions and which express the "revolutionary attitude maintained by the worker outside his work centre" may be included in the labour record. The Committee of Experts considered that those provisions were not in conformity with the provisions of the Convention concerning the Elimination of any Discrimination Based on Political Opinion and that the inclusion in the labour record of distinctions conferred for a "revolutionary attitude" outside the labour environment might constitute discrimination. 3/

20. In its 1993 report, the Committee of Experts took note of the information supplied by the Government to the effect that the Ministries of Education and Higher Training had undertaken studies with a view to removing from the student's school record elements which did not involve academic matters and that discussions were being held on a draft regulation for the application of employment policy, which defined the content of the cumulative labour record and would indicate clearly that it could no longer contain information on merits or demerits. The Government also indicated that resolution No. 590/1980 had been repealed, and that the Government was conducting an inquiry on the internal rules that had been established by some enterprises with a view to eliminating from files all information relative to moral attitudes or social conduct of workers, which were extraneous to the employment relationship. 4/

21. With regard to the communications media, the above-mentioned article 53 of the Constitution states that material conditions for the exercise of freedom of speech and of the press are created by the fact that the press, radio, television, cinema and other mass media are State-owned or social property and can in no case be privately owned. On this basis, there is no doubt that the authorities exercise strict control over the media and that censorship is practised systematically. The Committee of Experts on the Application of Conventions and Recommendations also referred in its 1993 report to possible discrimination against journalists on ideological grounds, stating in particular:

> "In previous direct requests, the Committee had noted that section 3 of resolution No. 50, of 21 September 1987, respecting the parameters for evaluating the performance of workers in journalism includes the political and ideological scope of the work performed. The Committee noted that the outcome of the evaluation affects the wage level of the workers in question since an evaluation that is not 'positive' has the effect of lowering the worker's wages ... Section 28 provides that as a result of a non-positive biennial evaluation the employment relationship of the person concerned may be terminated. The Committee notes the Government's reply that journalists' performances are evaluated solely on the basis of their qualifications and the results of their work. Given, however, that the text of this resolution makes reference to ideological and political elements which may affect both access to, and security of, employment and conditions of employment, the Committee asks the Government to provide information, in its next report, on the

measures taken or envisaged to remove these elements from the criteria for evaluation of journalists, set forth in resolution No. 50, so as to bring it into line with the stated practice of judging performance on the sole bases of qualifications and results." 5/

22. Another form of social and political control is exercised by the direct harassment of security agents, or through arrest and sentencing in the courts for offences defined by law. Here, the most vulnerable sector is the one made up of individuals belonging to groups that have emerged, without formal legal recognition, for the purpose of defending human rights or labour union rights and in some cases for a political purpose. The Special Rapporteur sees these groups as characterized above all by their zeal to use only peaceful means to achieve their ends. In many cases, they have applied to the authorities for inclusion in the Ministry of Justice's register of associations, although the requests have as a general rule remained unanswered. At the present time, there seem to be about 100 such associations and groups, according to a list recently received by the Special Rapporteur, each of them varying in their number of members, date of establishment or orientation.

23. As for the right to establish and join trade union organizations, the Special Rapporteur mentioned in his previous report to the Commission on Human Rights 6/ that the Committee on Freedom of Association of the International Labour Organisation had examined a complaint relating, inter alia, to the impossibility of establishing independent trade unions and the monopoly exercised in that regard by the Central Organization of Cuban Workers (CTC), the official trade union, and that the Committee had formulated provisional conclusions on the case. As part of its recommendations, the Committee urged the Government to send precise observations on the failure of the Ministry of Justice to reply to the request for registration and recognition of legal personality submitted by the General Union of Cuban Workers (UGTC). In the course of its May 1993 session, the Committee took up the complaint again in the light of the reply furnished by the Government and reached the following conclusions:

"280. As regards the allegation concerning the Ministry of Justice's failure to reply to the request for registration and recognition of legal personality submitted by the General Union of Cuban Workers (UGTC) (its rules and a list of some of the members' names had been enclosed by the complainant organization), the Committee notes the observations made by the Government according to which a request for registration had not been submitted, merely a request to the Ministry of Justice for a 'certificate of recognition' that there was no association of workers with the same name in that department and that, subsequently, Mr. Gutiérrez asked the Ministry to discount the aforementioned request for registration. In the Committee's opinion, it seems that 'certificate of recognition' was requested by Mr. Gutiérrez with the express aim of being able subsequently to request 'legal registration' for the new trade union, and he thus seemingly embarked on a procedure obviously with the

aim of registering a new trade union body. The Committee observes, moreover, that from the documentation included by the Government it seems that, although Mr. Gutiérrez in effect asked for the UCTC registration application to be discounted, this was merely due to the fact that he wished to change the name of the association to the 'Union of Cuban Workers (USTC)'.

"281. In the circumstances, the Committee concludes that the General Union of Cuban Workers was set up over a year and a half ago (according to the Government, it is now called the Union of Cuban Workers (USTC)), and has still not been registered. Furthermore, although it notes that the Government's declarations concerning the UGTC's lack of representativity, the Committee must point out that the fact that an organization has only a small number of members is not a good enough reason for refusing registration. In the circumstances, the Committee once again urges the Government to make an immediate pronouncement on the registration of the General Union of Cuban Workers (UGTC) (which according to the Government is now called the Union of Cuban Workers (USTC)), bearing in mind that, under Article 2 of Convention No. 87, workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their choosing without previous authorization. The Committee requests the Government to keep it informed of any measures adopted in this regard." 7/

24. A great many of the complaints received by the Special Rapporteur concern persons, in some way linked to human rights, trade union or political groups, who indicate that they were visited by State security agents at their homes or workplaces and threatened with loss of employment, prosecution or so-called "acts of repudiation" on the part of the "rapid response brigades" and, in some cases, were assaulted in the street by unknown persons or warned to leave the country. Examples include the cases of Aida Rosa Jiménez and Asalia Ballester Cintas, of the Democratic Civic Party; Rolando González Llanes, of the Human Rights Party in Guines, who was beaten by members of the police on 24 August 1993; and René Contreras Blanch, of the Cuban Human Rights Party, who was beaten on 16 March 1993 in the centre of Havana by members of the police and suffered head injuries. On 15 January 1994, the police staked out the homes of René del Poso and Vladimiro Roca, of the Socialist Movement, in order to prevent a meeting from being held. In the view of the Special Rapporteur, the idea of allowing groups of persons without legal identity or responsibility to "administer justice" is something that cannot be accepted in any society.

25. In other cases, the persons concerned are summoned to appear before the police where they are warned or held in custody for a short period and interrogated. Threats of reprisals against the family are also frequent, as well as house searches. For example, the case was reported of Robert Trobajo Hernández, Secretary of Cuba's General Union of Workers in Havana province and member of the National Commission of Independent Trade Unions, who was arrested on 5 March 1993 in the Güira de Melena district and taken to the police station at San Antonio de los Baños, where he was held for four days before being transferred to the Department of Technical Investigations (DTI) at San José de las Lajas, where he remained for

three more days. It was also reported that he was told he would be prosecuted for the crime of enemy propaganda if he continued to oppose the regime and that he had lost his job as a result of the arrest. Rolando Roque Malherbe, a member of the Socialist Democratic Movement, was warned on 23 September 1993 not to hold in his home a meeting planned for the following day and remained in custody until 27 September: at the meeting, which was held anyway, there was an act of repudiation in which about 300 persons took part, including some State Security officials, and some of the participants in the meeting, most of them linked to human rights groups, were threatened. In connection with those incidents Félix Antonio Bonne Carcassés, coordinator of the Cuban Civic Movement, was summoned on 27 September 1993 to the police station at Río Verde, Rancho Boyeros municipality, and later taken to the DTI detention centre at the intersection of 100 and Aldabó.

26. Other cases reported are the following: various members of the National Council for Civil Rights in Cuba and the Cuban Human Rights Party (Lázaro Fernández Hidalgo-Gato, Enrique López Valdés, Pedro Pablo Guzmán Cabrera, Sergio Rodríguez Valle, Sergio Llanes Martínez, Alcides Aguilar), were arrested in early November 1992 at San Antonio de los Baños. Omar Moisés Ruiz Hernández was interrogated for three days in July 1992 at the Santa Clara State Security headquarters in connection with complaints that had been sent abroad concerning Cuba's problems. Carlos Cordero Páez, a member of the National Council for Human Rights, was arrested on 5 October 1992 when, at the entrance to the Havana Provincial Court where the trial against Sebastián Arcos Bergnes was to be held, he displayed a placard with the words "Freedom for Sebastián Arcos"; he was beaten and taken to the police station at the intersection of Cuba and Chacón, released at about 11 p.m., once the trial had ended. Ana Daisy Becerra, a member of the Committee of Mothers for Granting Amnesty to Political Prisoners, was arrested on 13 December 1992 and taken to the Picota police station in Old Havana and was threatened with prosecution for enemy propaganda because complaints about human rights violations in the Combinado del Este Prison had been found in her home. Paula Valiente, President of the Association of Mothers for Dignity, was interrogated several times in 1992 and 1993 and threatened because of her activities in connection with political prisoners and for reporting human rights violations abroad; other members of her organization such as Hilda Cabrera, Berta Galán and Victoria Cruz and members of her family have also been threatened and interrogated. María Valdés Rosado, coordinator of Democratic Civic Action, and Alicia Suárez, of the Cuban Christian Democratic Movement, were arrested in Havana on 7 May 1993 and released two days later. Caridad Duarte Gómez, of the Organización Juvenil Martiana, was interrogated for several hours on 4 August 1993 at the municipal police station of Old Havana and on 19 May 1993 at the Picota and Paula station. Vivian Pérez Medina and Gisela Estévez Martínez, of the Cuban Foundation for Human Rights, were arrested on 5 August 1993, in San José de las Lajas and held for several hours at the police station where they were threatened and forced to sign warnings. Raúl Valderrama Martínez, Secretary-General of the Foundation for Human Rights, was arrested on 17 November 1993 in San José de las Lajas and taken to the municipal police station, where he was interrogated in connection with an interview he had given to a foreign journalist a few days earlier, accused of spreading false news and threatened; he was released two days later; he had already been arrested on 15 July 1993 and released three months later. Lázara Herrera Portel, wife of the Democratic Civic Front member,

Eugenio Rodríguez Chaple, was arrested in Havana on 23 November 1993 and taken to the police station in Capri, where she remained for 72 hours; on 2 December 1993, Mr. Rodríguez Chaple himself was threatened and beaten up in the street by persons who took his identity card away from him; where a few weeks earlier, he had been a victim of an attempt to run him down by persons driving past in a vehicle who shouted threats at him. Carlos Goicolea, Manuel Sánchez, Argelio Reyes and Leonardo Calvo, members of the Socialist Democratic Movement, were summoned to police stations on 12 January 1994 and received warnings in connection with their political activities.

27. In another group of cases the persons concerned were tried and sentenced to prison terms of varying lengths. According to reports, during the first stage of the investigation, the detainee is often held on security police premises for several months, sometimes in sealed cells from which he is taken only to be repeatedly interrogated at any time of day or night, with extremely limited access to visits from his family or lawyer. The Special Rapporteur received information recently on the following specific cases, some of which occurred in 1992:

(a) Pablo Reyes Martínez, a member of the National Civic Union, was sentenced in October 1992 by the Havana Provincial Court to eight years of imprisonment and confiscation of all his property for the crime of enemy propaganda because, according to the verdict, he had engaged in "the dissemination of false information about alleged human rights violations in Cuba and other economic aspects, reflecting negatively on the masses, which had been provided to him by various discontented people and not verified by the accused, and were clearly designed to discredit the work of the revolution, and the prestige of its leaders, and ultimately to undermine the economic, political and social foundations of our system";

(b) Luis Enrique Grave de Peralta Morel, a former professor of physics who was expelled from the Oriente University for having left the communist party, and Arquímedes Ruiz Columbié, Robier Rodríguez Leiva and Carlos Orue Caballero, researchers of the Cuban Academy of Sciences, were arrested on 13 February 1992 in Santiago de Cuba in connection with the establishment of a political movement called "New Generation" that was critical of government policy. For the crime of rebellion they were later sentenced to 13, 8, 10 and 8 years of imprisonment, respectively;

(c) Bárbara Celia González Toledo, a qualified economist and public accountant, was convicted of contempt on 15 July 1992 by the Ciego de Avila Provincial Court and sentenced to 18 months of imprisonment and loss of employment for having expressed critical views in private about the country's leaders;

(d) Juan José Moreno Reyes, Luis Reyes Reynosa, Benigno Raúl Benoit Pupo, Eduardo Guzmán Fornaris, Enrique Chamberlays Soler, Lorenzo Cutiño Bárzaga, Adolfo Durán Figueredo, Wilfredo Galano Matos, Rafael Rivera Matos, Maritza Santos Rosell, Ramón Mariano Peña Escalona and Ramón Fernández Francisco were sentenced to prison terms of between 5 and 13 years for crimes of rebellion and other acts against State security in March 1993 by the Santiago de Cuba Provincial Court. The acts for which they

were charged involved holding meetings and printing and distributing flyers in various municipalities of Holguín province criticizing the Government. Seven other people received sentences of between one and two years in relation to the same incidents;

(e) Juan Francisco Fernández González, a doctor, was arrested on 18 March 1992 in Havana and tried for the crime of enemy propaganda. During the trial, held on 15 December 1992, the charges were changed to rebellion and he was sentenced to 10 years of imprisonment. In the course of one year, the place of detention was changed no less than six times. In the same case, the Havana Provincial Court also sentenced Eduardo Prida, a qualified psychologist, and Mario Godínez, an electrician, to 15 and 12 years of imprisonment, respectively;

(f) Amador Blanco Hernández, President of the José Martí National Human Rights Commission, was arrested on 10 December 1992 at his home at Caibarien, Villa Clara, and taken to the State Security Department at Santa Clara. He was charged with enemy propaganda along with Joel Mesa Morales, Vice-President of the Commission, who was arrested on 26 January 1993, and they were sentenced in September 1993 to eight and seven years of imprisonment, respectively, by the Villa Clara People's Provincial Court. In his provisional conclusions, the prosecutor mentioned among the charges that the accused "had been engaged in a propaganda campaign in order to discredit the Cuban revolution through the collection of numerous false complaints, consisting of alleged maltreatment and physical attacks, persecution, injuries and threats to various persons and prisoners by members of the Ministry of the Interior in general and military and rehabilitative personnel at the penitentiary centres in particular, sent through different channels to different subversive outlets". In 1982, Mr. Blanco Hernández had been dismissed from his post as professor at the Central University of Las Villas for having been critical of government policy;

(g) Angel Prieto Méndez, a retired Cubana de Aviación pilot and founder of the Martí Association for Opposition to the Regime, was arrested on 26 December 1991 and accused of enemy propaganda and contempt. On 6 January 1993, he was tried and sentenced to 10 years' imprisonment. At present, he is serving his sentence in Guanajay Prison;

(h) Alfredo García Quesada, electrician and student at the University of Camagüey, was arrested on 23 April 1993 in the Guayabal district, Las Tunas, for distributing flyers reading "Down with Fidel" and for painting those words on the body of a white horse. He is now serving a five-year term in the prison at Típico de Las Tunas;

(i) Adriano González Marichal, of the Pacifist Solidarity and Peace Movement, was arrested on 6 January 1992. During the trial held in September 1993, he was accused primarily of maintaining contacts with Cuban organizations abroad and was sentenced to 12 years' imprisonment for enemy propaganda;

(j) Luis Felipe Lorens Nadal, President of the Organización Juvenil Martiana, was arrested on 22 September 1993 in Havana. A few days later, he was brought to trial and sentenced to four years' imprisonment for antisocial behaviour, having been accused of inciting the workers at the Comocoiba Hotel and of not working. At present, he is serving his sentence in Combinado del Este Prison.

28. The Special Rapporteur was also informed of the following cases of persons who were formally accused of enemy propaganda or similar crimes who at the time the information was received, were being held in custody pending trial: Luis Gustavo Domínguez Gutiérrez, from the group Peace, Progress and Liberty, accused of enemy propaganda because he sent a letter to the Government in which he renounced the medals awarded to him for his participation in the Angola campaign; Pedro Armentero Lazo, imprisoned in the Combinado del Este Prison; Orfilio García Quesada, held in El Guayabal district, Victoria de las Tunas, in May 1993 for having participated in a process of collecting signatures calling for political change; Roberto Alvarez San Martín, a well-known writer and journalist, banned from practising his profession in February 1992; Domiciano Torres, a former professor of architecture, who was expelled from his department at the Armando Mestre de Guanabacoa Technological Institute in 1992, and vice-president of the Democratic Civic Party, arrested on 13 August 1993 and taken to the State Security offices at Villa Marista, where he was held for 42 days; at the time of his arrest, he is alleged to have been brutally beaten; later, he was transferred to the Havana Psychiatric Hospital; the latest information received indicated that he was awaiting trial in El Pitirre Prison in San Miguel del Padrón district, Havana City.

29. The Special Rapporteur was also informed that, in 1993, a great many persons were sentenced to one to four years' imprisonment under the provisions on anti-social behaviour, particularly young persons accused of involvement in disturbances of public order. It was also reported that the trials in such cases did not offer minimum guarantees of the right of defence and that the accused were sentenced almost systematically in trials held only a few days after their arrest had taken place. Newspaper sources indicated that, from late August to early November 1993, about 2,500 persons had been sentenced on such grounds. 8/

30. In connection with proceedings in cases with political connotations, the Special Rapporteur received information on the role of attorneys stating that their basic duty is not to defend the interests of their clients, as these are subordinated to the interests of the system. Persons who had been sentenced for political offences told the Special Rapporteur that they met their defence attorney only at the time of their oral hearing and that the defence consisted only of presenting some standard mitigating circumstances rather than proving the innocence of the accused, who could always be certain in advance that he would be convicted. They also said that, in a large number of cases, neither the person concerned nor his family received a copy of the verdict and sometimes not even the accusation, so that, at the time of the trial, the accused had only the oral version given by the investigating authority, that is, under the Cuban procedural system, the police, with respect to the legal characterization of the offences he was accused of. Similarly, articles 160 and 161 of the Code of Criminal Procedure, which refer to the form in which a

statement by the accused is to be taken during the preparatory phase of the procedure in the appropriate police unit, do not give the accused the right to make a statement in the presence of a defence counsel, whether of his choice or assigned.

31. On a number of occasions, the Special Rapporteur received complaints about the way in which trials for offences against State security are conducted: discriminatory treatment of the witnesses for the defence and the prosecution, an excessively aggressive attitude on the part of the prosecutor and an obvious lack of impartiality by the judge in the conduct of the hearings seem to be habitual practices.

32. In addition to the measures referred to above, loss of employment is also common, often accompanied by threats and campaigns to discredit the victim. This measure creates particular problems for people who are unable to find any other work corresponding to their qualifications, because the State is the sole employer; the entire family unit then suffers the consequences. The following are some of the cases communicated to the Special Rapporteur:

(a) Rolando Díaz Acosta, expelled in October 1992 from his post in José Martí National Library, in 10 October District, for being one of a group of intellectuals who signed a letter to the Heads of State and Government at the Second Ibero-American Summit in which they drew attention to the need for changes in the country. For the same reason, he was also evicted from the house where he lived;

(b) Guillermo Fernández Donates, expelled in October 1992 from his civil engineer's post in Construction Project Company No. 2 in Havana for revealing his membership in the Corriente Cívica and the Cuban Committee for Human Rights; in February 1993, he was also expelled from Havana University where he was a law student and from the sports centre he frequently visited. His wife, Euridice Sotolongo Losada, was forced to resign from the same technical centre;

(c) Heriberto Alejandro Bario Lorences, expelled from his engineer's post at the Havana Institute for Sugar Projects in June 1992 for sending information abroad concerning the arrest of his colleague, Mariano Gort, on a charge of disseminating enemy propaganda;

(d) Leonardo José Rodríguez Pérez, expelled from his research post at the Havana Centre for Metallurgical Research in January 1993 for signing the above-mentioned letter to the Ibero-American Summit.

33. The Special Rapporteur also received information on the following cases of university professors expelled under Decree-Law No. 34/1980, which enables the heads of the Municipal Departments of Local People's Power Organizations to dismiss staff members from institutions of higher learning on the grounds of activities contrary to socialist morality and the ideological principles of society:

(a) Reinaldo Cosano Alén was expelled from his teacher's post in the "Jésus Suárez Gayol" faculty of Guanabo in Havana in September 1992 for his work with the Cuban Committee for Human Rights. In the official document

confirming his expulsion, Mr. Cosano's activities are rated inappropriate for the work of an educator since they may have serious repercussions on the training of Cuban children and young people;

(b) Ramón Rodríguez Ríos lost his teacher's post at a centre in San Antonio de los Baños and was generally disqualified from the teaching profession in 1992 after it was confirmed, according to the resolutions on expulsion, that "he was a full member of a human rights group", this being deemed "contrary to socialist morality and the principles of our society";

(c) Félix Díaz Cáceres, a physical education teacher at Pinar del Río, was expelled from his post in May 1992 for openly opposing the expulsion of a group of university professors from their posts because they had written a declaration of principles in which they asked for political changes; 9/ on 3 August 1992, he was summoned to State Security premises where he was interrogated about the "Open letter of Cuban professionals to the Ibero-American Summit"; in September, he was arrested and spent 18 days in the State Security Department at Pinar del Río on charges of disseminating enemy propaganda.

34. It is the opinion of the Special Rapporteur that these recent expulsions are not in keeping with what was indicated by the Committee of Experts on the Application of Conventions and Recommendations of the International Labour Office in its investigation of the application of Convention No. 111 (Discrimination in respect of Employment and Occupation), included in its 1992 report:

> "The Committee takes note of the Government's declaration whereby the provisions of decree-law No. 34/1980 ... do not have practical application today. The Committee hopes that, as indicated by the Government, these provisions will be harmonized with the Convention at the time revision of the above laws is begun. Furthermore, the Committee again asks the Government to supply the text of attached resolution No. 2, dated 20 December 1989, from the Ministries of Education and Higher Education dealing with the reinstatement of workers in the teaching field to whom decree-law No. 34/1980 was applied". 10/

In its 1993 report, the Committee again requested the Government to provide a copy of resolution No. 2, dated 20 December 1989. 11/

C. The right to enter and leave the country

35. According to information received, in recent years the Cuban authorities have relaxed the restrictions on foreign travel by Cuban citizens, for example by lowering to 20 the minimum age for travel; however, many limitations still remain. Generally speaking, the right to leave and return to one's own country, embodied in article 13 of the Universal Declaration of Human Rights, is not recognized. All persons wishing to leave the country, either temporarily or permanently, are required to obtain an exit permit from the Ministry of the Interior, a permit which is issued on a discretionary basis.

36. With regard to cases of family reunification, the wives and children of ordinary citizens who leave the country temporarily, but subsequently remain abroad, normally obtain authorization to join their relatives. However, in the case of citizens who occupied posts regarded as sensitive or who have been openly critical of the system, their families are frequently refused such authorization. In this connection, reports have been received of the cases of Nydia Cartaya Medina and her four daughters, who have been refused exit permits ever since her husband, a former serviceman, obtained asylum in the United States in 1985; similar cases include those of Dalgis Nelson Ginarte and her daughter, Indira Lázara Martínez Nelson, from Santiago de Cuba, who have visas to join their husband and father in the United States, and Marelis Mena García and her daughter Marel Franquiz Mena, the wife and daughter of a nuclear physicist.

37. Even in cases where persons do obtain permission to emigrate, they are frequently subjected to reprisals as a result of their application, such as dismissal from their job, demotion, expulsion from educational institutions or confiscation of their ration book. In addition, the property of the persons in question, such as housing, furniture and cars, is taken over by the State.

38. Apart from these situations, there are others in which human rights activists - some of them in prison - are harassed by the authorities to leave the country. In this connection, reports have been received of cases such as those of Sebastián Arcos Bergnes and Yndamiro Restano, mentioned later, Rodolfo González González of the Cuban Committee for Human Rights and Félix Fleyta Posada of the Free Art Association, who is serving a sentence in Agüica prison. In the case of Francisco Chaviano González of the National Council for Civil Rights in Cuba, authorization for his children - who hold visas for entry to the United States - to leave the country has been made conditional on Mr. Chaviano's leaving the country also.

39. The stream of people trying to leave the country illegally by any means continues unabated. According to some sources, approximately 25 people a day make the attempt; as a rough estimate, only one in four succeeds; two, facing physical danger or arrest, are forced to return; and one is killed in the attempt. According to another estimate, 2,500 people reached the United States coast in this way in 1992 and about 3,000 in 1993. The sources consider that, although political reasons have some significance, the main cause of this emigration is the economic situation, with its concomitant lack of opportunity and options. As a result, during the past few years, the number of people attempting to emigrate has risen significantly. In view of the enormous risk to life which this entails, the Special Rapporteur does not favour people abroad encouraging Cubans to attempt this method of leaving the country.

40. Reports have also been received of Cuban coastguard patrols firing repeatedly on people trying to reach the United States naval base at Guantánamo by sea, and sometimes even by land, in order to seek asylum, as in the case of Ismar Torres Pérez, a young man who was shot dead on 8 August 1993. According to those sending in the reports, this policy should be all the more strongly criticized because the use of force is both excessive and unnecessary when arrest is the only purpose. Cases of excessive force used at other points on the coast against people trying to leave the country

by their own means have also been reported, along with cases of boats arriving from abroad and approaching the Cuban coast in order to pick up Cuban citizens. Thus, on 1 July 1993, frontier guards shot dead Alfredo Evelio Caballín Marín, Loamis González Manzini, aged 16, and Mario Horta while, together with other persons, they were trying to reach a United States boat off the coast at Cojímar. On 15 October 1993, Luis Quevedo Remolina, aged 23, was killed when he was caught by frontier guards while, together with seven other young men, he was trying to leave the country in a raft at Regla; according to the report, death was caused by the many blows he received immediately after his arrest; the men were also shot at when they were noticed.

41. Persons arrested while trying to leave the country continue to be prosecuted under article 216 of the Criminal Code. Moreover, the act of accumulating over time material to be used for leaving the country and transferring it to a prearranged place is considered a crime. Some of these cases were reported to the Special Rapporteur, for example, that of Alejandro Joaquín Fuertes García, sentenced on 10 May 1992 to five years' deprivation of liberty for illegal exit by the provincial court of Santa Clara after a trial at which his defending attorney was not present. At the time of his arrest by security agents of Santa Clara State, he was severely beaten, suffering, among other things, kidney damage and reduced vision in one eye.

42. Lastly, the Special Rapporteur considers positive the action taken by the Cuban authorities to increase the number of Cuban citizens residing abroad who can visit the country. Although in the past only 90 visas per week have been granted, apart from the humanitarian visas granted in cases of grave illness or death in the family, under the new measures announced at the end of July 1993, the Cuban authorities may issue 100 tourist day visas to Cubans who left the country more than five years ago.

III. CONDITIONS IN THE PRISONS

43. It is reported that the food and hygiene situation and the lack of medical attention continue to be alarming and have created many health problems affecting the prison population. Anaemia, diarrhoea and skin and parasite diseases as a result of contaminated water seem to be common ailments in most prisons and, in some, like those of Manacas and Combinado del Este, cases of tuberculosis have been recorded. This situation has caused the death of some prisoners, including: Alcides Pérez Rodríguez, imprisoned before trial in Ariza provincial prison, who died on 5 March 1993 in Cienfuegos provincial hospital as a result of a generalized infection; Juan Enrique Olano Pérez, who was serving a two-year term in Quivicán prison and who died in Hermanos Ameijeiras hospital, to which he was taken when he was already in a critical condition; and Junior Flores Díaz, a 17-year-old inmate in Valle Grande prison in Havana, who died on 12 December 1993 after having been refused medical attention and having been beaten and kept in a punishment cell.

44. Prisoners who have protested in some way against their treatment or who have refused re-education, meaning - according to the information received - political and ideological instruction, have also been subjected to reprisals such as beatings, confinement in punishment cells (which are extremely small,

have sealed doors and in which the prisoner can remain for months without seeing daylight), transfer to another prison, usually far from his family's place of residence, suspension of family visits or denial of medical treatment. Thus there are cases such as those of Luis Alberto Pita Santos, President of the Association for the Defence of Political Rights, held in Kilo 8 prison in Camaguey, who was struck repeatedly to force him to wear the uniform and chained for long periods to the bars of his cell; before his transfer to that prison, early in 1993, he had been in Boniato prison in Santiago de Cuba, where he appears to have spent several months in punishment cells and was beaten in December 1992, as a result of which his arm was fractured. His cell-mate, Jesús Chambes Ramírez, was also beaten in the same incident, suffering a broken cheek-bone and bruising to several parts of his body. It has also been reported that some prisoners have been transferred or confined to punishment cells because written complaints about prison conditions had been discovered, as in the case of Arturo Suárez Ramos, a member of the Cuban Committee for Human Rights, who was transferred from Combinado del Este prison to Boniato and confined to a punishment cell for complaining about the condition of the prisoners. Carlos Alberto Aguilera Guevara, Roberto Mures, Luis Grave de Peralta, Jesús Chambert, Ibrán Herrera Ramírez, Enrique González, Rodolfo Guitiérrez and Robier Rodríguez were held in Boniato prison, beaten and transferred to Kilo 8 maximum security prison in Camaguëy on 12 February 1993 for engaging in a hunger strike in protest against their ill-treatment. In early October 1993, Carlos Aguilera, Jesús Chambert, Rodolfo Gutiérrez and Roberto Mures were severely beaten for protesting about prison conditions and kept in solitary confinement. Reports have also been received of the cases of Tomás Córdova and Hibraín Odelín Hardin, inmates in Micro 4 prison in Alamar, Havana City, who were brutally beaten by several guards on 30 October 1993, as a result of which Mr. Odelín suffered a perforated eardrum; and the case of Junior Flores Díaz, a 17-year-old inmate in Valle Grande prison in Havana, who died on 12 December.

45. The Special Rapporteur has received material complaining of the use of psychiatry for other than strictly medical purposes, but does not have enough solid information to state that this takes place. On the other hand, the Special Rapporteur, in his conversations with former prisoners, observed that a fear of being subjected to this kind of treatment seems to exist among the prison population.

46. The number of persons serving sentences for political offences is difficult to estimate. Some sources place the number between 2,000 and 5,000 persons, including those sentenced for illegal departure. The Cuban Committee for Human Rights gave the Special Rapporteur a list of 602 prisoners who were serving sentences in 1992 for political offences. Of those, 342 were sentenced for the offence of disseminating enemy propaganda, 83 for sabotage, 31 for piracy, 52 for contempt, 15 for terrorism, 14 for espionage, 14 for offences against State security, 16 for rebellion, 15 for illegal association and the remainder for miscellaneous offences. A small number of prisoners were released in 1993 on condition that they leave the country. Others, such as Sebastián Arcos Bergnes, who is serving a sentence of four years and eight months in Ariza prison, Cienfuegos, and Yndamiro Restano, President of the Harmony Movement, who was sentenced to 10 years, have refused the offer.

IV. CONSIDERATIONS CONCERNING THE ENJOYMENT OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

47. The report of the group of ambassadors who visited Cuba pursuant to Commission on Human Rights decision 1988/106 sums up the comments made by representatives of the Government of Cuba on the enjoyment of economic, social and cultural rights in that country. The Special Rapporteur duly recalls some of those comments:

> "The Minister of Labour explained to the group that the State guaranteed to all Cubans the right to work. There was no unemployment in Cuba and the social security system protected mothers, children and elderly people and looked after people who were temporarily or permanently sick or injured.
>
> " ...
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> "In his meeting with the group, the President of the Council of State said that the achievements of the Revolution in the social sphere had been outstanding and that, as a result of the efforts made by the regime in the areas of preventive medicine, mother and child care, and nutrition, his Government had over the last 30 years saved the lives of approximately 300,000 children who would not have survived if substantial changes in Cuban social policy had not been introduced. He compared the experience of Cuba in this area with that of other countries of the third world, where as a result of the unjust international economic order many children were dying of starvation every day.
>
> " ...
>
> "The Minister of Health said that average life expectancy was currently 74.6 years (as compared with 58 years in 1965 and 52 years in 1959), which placed Cuba on a level comparable with that of many developed countries. He mentioned that other achievements in the area of public health were the treatment of contagious diseases, advances in the area of nutrition and the eradication of malaria, diphtheria, tuberculosis, polio, meningitis and tetanus in children and other common infantile epidemics, with a consequent drastic reduction in infant mortality. ... He also mentioned that those efforts with respect to health would have failed if adequate attention had not been paid to the training of future doctors, nurses and specialized technical staff. Other indications of the efforts being made by the regime in the area of health was the current encouragement to applied scientific research, especially in the spheres of genetics and tropical diseases, and promotion of the industrial production of medical equipment.
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> "In his meeting with the group, the Minister of Education [said that] ... the school-attendance stage ran from 6 to 16 years of age. The figure for children of those ages enrolled was 93 per cent, rising to 98 per cent for the 6 to 12 category. The whole school system was compulsory and free of charge.

"With regard to university education, the Minister of Higher Education informed the group that there had been 15,000 university students in Cuba in 1959, 35,000 in 1971 and 85,000 in 1976; the current figure was 310,000, or 3 per cent of the total population." 12/

48. Certain statistics in the Human Development Report 1993 issued by the United Nations Development Programme (UNDP) confirm some of the data given by the Cuban authorities:

(a) Life expectancy at birth for 1990 was 75.4 years as against 63.8 in 1960;

(b) Infant mortality (per 1,000 live births) was 14 infants in 1991 as against 65 in 1960;

(c) The percentage of the population with access to health services (1987-1990) was 100 per cent, in both urban and rural areas;

(d) The number of inhabitants per doctor (1984-1989) was 530;

(e) The adult literacy rate for 1990 was 94 per cent as against 87 per cent in 1970;

(f) The combined primary and secondary school-enrolment rate (1987-1990) was 95 per cent as against 76 per cent in 1970.

49. A report prepared and sent to the Special Rapporteur by the Cuban Christian Democrat Party (PDC) abroad takes stock of the achievements of recent decades in the social sector, which most of the population see as a positive factor.

50. In the educational sector, the report mentions that the Cuban Government has managed in 33 years to set up an educational infrastructure. Day-care centres, schools, secondary schools, pre-university institutions, technical institutes and universities exist throughout the country. Teachers have been trained in large numbers, and a series of laws have been put in place that foster education as one of the basic tasks of the Government. Furthermore, education is virtually free of charge.

51. In the health sector, the PDC report indicates that the Cuban Government has created a country-wide infrastructure, as concerns not only hospitals but also the training of doctors, nurses and all health personnel. However, many of the achievements, such as the low infant-mortality rates, the high life expectancy and the eradication of diseases, are being severely compromised by the economic crisis in Cuba. Surgical equipment is one of the items most affected. Only emergency operations are being carried out and there is a shortage of medicines and laboratory materials. The shortage of medicines and poor nutrition are producing vitamin deficiencies and serious nutritional deficiencies.

52. In the social security sector, the report recalls the adoption in January 1980 of Act No. 24, which set up the social security system, consisting of two parts: the social security system and the social welfare

system. The former offers protection to workers in case of ordinary or on-the-job illness or accident, maternity, disability and old age. If a worker dies, his family is protected. The social welfare system gives special protection to the elderly, persons incapable of working, and in general all whose essential needs are not ensured or who need protection because of their living or health conditions. Some of the benefits established include:

(a) Old-age pension, to which men are entitled at the age of 60 and women at 55;

(b) Disability pension;

(c) Death benefit; to which are entitled widows, widowers over 60 or incapacitated widowers who were dependent on the deceased worker, children, including adopted children, under 17, parents, including adoptive parents;

(d) As to women's benefits, 18-week paid maternity leave established by law for working mothers.

53. The same report indicates that, as the Cuban authorities stated, the social security system has remained unchanged despite the present economic crisis.

54. The Special Rapporteur believes that the observations contained in both the report of the visiting mission to Cuba in 1988 and the report of the Christian Democrat Party generally convey the feelings of a large part of the population, which recognizes that in the last 30 years the Government has made efforts and achieved substantial progress in promoting and protecting economic, social and cultural rights. The economic crisis the country is experiencing at this time might unfortunately be a factor in determining whether the progress can be sustained. The Government's political will to preserve the people's social welfare benefits seems to be steadfast; however, the lack of adequate resources makes it a real possibility that the system will not be able to continue functioning as hoped.

55. The reforms in the Cuban economy introduced primarily during the past year include the promotion of direct foreign investment, the increased cooperativization of agriculture, permission to engage in small private family businesses, and the possibility of receiving and using foreign currency. These measures are intended to strengthen the balance of payments and to increase the supply of goods and services for the population as a whole.

56. Additional measures on the same lines are essential and appear to be under way, with a view to developing an economy capable of meeting the basic needs of the population.

57. In the present circumstances, the parallel economy which has arisen primarily through the free movement of currency and the tourist sector is causing substantial changes in the distribution of incomes. Given the Cuban pattern of relative equality in the economic and social sphere during the past few decades, this undoubtedly involuntary effect of the economic programme, together with growing unemployment, could give rise to social tension.

58. The economic reforms are being curbed by ideological and political factors, in particular by deep suspicion of anything that entails limitation of governmental control. In addition, the economic, commercial and financial embargo maintained by the United States is curbing greater liberalization of the economy. Apart from impeding and dramatically increasing the cost of the reforms, the embargo against Cuba is creating political barriers to more far-reaching action and more immediate results, at a time when the urgent reactivation of the economy is necessary from a humanitarian standpoint and, in the final analysis, from a human rights perspective. The questions relating to the effects of the embargo from the standpoint of international law were dealt with by the General Assembly of the United Nations in its resolution 48/16 entitled "Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba".

V. INFORMATION RECEIVED FROM INSTITUTIONS AND ORGANIZATIONS BASED IN CUBA IN ACCORDANCE WITH CURRENT LEGISLATION

59. The Special Rapporteur received letters from a number of organizations and institutions inside Cuba commenting on various aspects of the human rights situation there and on the content of the report submitted by the Special Rapporteur to the Commission on Human Rights at its forty-ninth session. These letters are summarized below.

60. The Cuban National Union of Jurists stated, with regard to the above-mentioned report, that the entirety of the Universal Declaration on Human Rights had not been taken into account when analysing the non-fulfilment of its provisions in Cuba. Of its 30 articles, only those relating to the right of everyone to freedom of movement and to leave and enter the country; the right to freedom of thought, conscience and religion; the right to freedom of opinion and expression; and the right to freedom of assembly and peaceful association, as well as conditions in the prisons, were considered. However, the analysis of human rights in any country must cover them all; otherwise the conclusions reached are incomplete and do not adequately reflect reality. Furthermore, the focus used for analysing fulfilment of the aforesaid rights was applied without regard for the climate of hostility which the United States has been imposing on Cuba for the last 34 years, the economic embargo being the fundamental reason for the adverse living conditions experienced by the Cuban people, and taking as valid unreliable information sources or sources based on rumours and speculation by the Miami-based media hostile to Cuba or others which are supposedly based in Cuba, but have no legitimacy, credit, membership or prestige.

61. The Special Rapporteur also received a letter from Cuba from the so-called Felix Varela Centre, commenting that the Rapporteur's report made no mention of the historic context within which the Cuban political system emerged and developed and, in particular, the continued United States aggression over 35 years. Cuban intransigence could thus be explained by the people's rejection of the idea of a possible loss of their independence and restoration of the former status quo. This organization wonders what legitimacy can attach to a policy which, in the name of "restoring" the Cuban people's civil and political rights, decides to deprive them of their economic, social and cultural rights and whether it would not be more appropriate to free the people from all outside pressure and give them, with

full respect for their self-determination, the material and spiritual assistance whereby they can make their own choice. The Special Rapporteur's report, far from contributing to human rights in Cuba, fosters their violation in two ways: overall, because it does not denounce the United States policy of genocide against the Cuban people and, in individual cases, because it encourages rejection and intolerance, thereby making more difficult the climate of tranquillity needed for any exercise of self-criticism.

62. The Cuban Movement for Peace and Sovereignty of Peoples stated that, as far as civil and political rights are concerned, the Cuban revolution has created a deep-rooted and wide-ranging democracy based on the direct and systematic participation of all the people in making and implementing decisions and in electing leaders at all levels, from the almost 14,000 district representatives, nominated and elected at the grass roots, to the members of the National Assembly of People's Power and the organs of the State. In Cuba, there is no police repression, or paramilitary gangs, or persons imprisoned without having been tried and sentenced by competent courts on the basis of laws promulgated before the offences are committed, and not including any that relate to political ideas or religious beliefs. While torture, assassinations, disappearances, etc. are rife throughout the world, in Cuba not a single case can be cited of an act of that kind having occurred over more than three decades of revolution. Nor is there a single case of discrimination in Cuba on any grounds. Furthermore, one characteristic of the revolutionary process is the effort towards social, economic and cultural development, aimed at attaining that quality of life repeatedly referred to by the General Assembly in its analysis of the right to development. All attempts at development are hampered by the economic, trade and financial embargo imposed on Cuba by the United States for more than 30 years and condemned by the United Nations General Assembly as well as by many Governments and such bodies as the European Parliament, the European Economic Community, the Latin American Group of Eight and the Third Ibero-American Conference of Heads of State and Government.

63. The Federation of Cuban Women also referred to the embargo, noting that it has caused stringent food rationing and a shortage of products for cleaning and personal use that seriously affect the daily lives of Cuban families. The inclusion of such sensitive categories as food and medicines gravely impairs the people's levels of health and social well-being. Another aspect from which to judge the effects of the embargo is the refusal of visas. On many occasions, members of the Federation invited to the country by universities and women's groups and organizations have been refused entry by the United States Government.

64. The Solidarity Organization of the Peoples of Africa, Asia and Latin America sent the Special Rapporteur a letter giving a brief history of the United States economic embargo against Cuba, an embargo which they claim has caused the Cuban people material losses of more than 40 billion dollars, and including references to acts of military aggression, terrorism and other crimes. The letter also referred to the following aspects of the accomplishments of the revolution in Cuba: the right to life is guaranteed, so much so that if Cuban public health standards were to prevail in Latin America, the lives of 500,000 children a year could be saved. Cuba has more teachers per capita than any other country in the world. Ninety-five per cent

of children have been immunized. Diseases such as poliomyelitis, diphtheria, tetanus, whooping cough, etc., have been eradicated and tuberculosis considerably reduced. The social security system guarantees retired persons the right to a decent old age. Illiteracy has been wiped out. The education budget is 20 times larger than in the previous period and the public health budget 50 times larger than before the revolution. In all the history of the revolutionary period in Cuba, there has been no case of torture or forced disappearance. Voting is not compulsory, but nevertheless 99 per cent of the voters take part in the elections. Women make up 40 per cent of the country's workers and 60 per cent of medium and higher-level technicians. Now that Cubans have been made the owners of their houses, evictions have been eliminated in the towns and, now that the peasants own their land, dispossession has been eliminated in the countryside. It took the United States 69 years to raise life expectancy from 60 to 70 years; Cuba, thanks to revolution, did it in less than half the time, attaining a life-expectancy of 76 years for Cubans.

VI. CONCLUSIONS AND RECOMMENDATIONS

65. The Government of Cuba still refuses to accept the Commission on Human Rights decision to continue monitoring human rights conditions in that country and rejects all cooperation with the Special Rapporteur. In this connection, appendix II contains the statement made by the Permanent Representative of Cuba to the United Nations on 29 November 1993 during the forty-eighth session of the General Assembly. The Rapporteur once again calls upon the Government of Cuba to modify this stance and to enter into an open and direct dialogue on the circumstances and specific cases described and presented in his reports and on any other aspect of the human rights issue. He also calls on the Government to afford him the opportunity to visit the country, as is customary for those fulfilling the mandates of the Commission on Human Rights.

66. The Special Rapporteur, however, received during 1993 communications from organizations and institutions based in Cuba in accordance with current legislation. The basic content of the communications is included in this report (paras. 59-64). The statements of these organizations focus on successes achieved in the social and educational sector, but also refer to the United States economic, commercial and financial embargo on Cuba as the fundamental reason for the economic shortfalls and lack of room for political reforms.

67. The present report concentrates foremost on analysing reports received concerning conditions in the areas of civil and political rights and describes specific cases of violations and some matters relating to the constitutional and legal framework. In connection with the latter, the Special Rapporteur observes that the Constitution in force in Cuba is based, as stated in its preamble, on the political and social ideas of Marx, Engels and Lenin. Like Cuba, many other countries have constitutions formulated on a more or less clearly defined ideological basis. It is not, however, the task of the Special Rapporteur to express opinions on this question; his mandate is confined to analysing the consequences for human rights and fundamental freedoms of the interpretation and implementation of the Constitution by the authorities - in this case Cuban. In this connection, the criticism is based,

primarily, on the lack of opportunity for citizens to channel and defend their interests and opinions in cases in which the latter do not coincide with the line authorized and maintained by the forces in power.

68. The report also refers in detail to the investigation carried out by the ILO Committee of Experts on the Application of Conventions and Recommendations and the Committee on Freedom of Association concerning the implementation of different conventions in Cuba, not only because of their fundamental relevance, but also because they are organs with which the Government has maintained a dialogue. In addition, some economic and social development data, based on information supplied to the United Nations by government sources, have been collected: the most recent Human Development Report compiled by the United Nations Development Programme, reports from non-governmental sources and communications from Cuba transmitted by the above-mentioned institutions.

69. Taking into account all the foregoing, the Special Rapporteur considers it necessary to recommend to the Government of Cuba that it should adopt measures to:

(a) Ratify the principal human rights instruments to which Cuba is not a party, in particular, the Covenant on Civil and Political Rights with its additional protocols and the Covenant on Economic, Social and Cultural Rights;

(b) Cease persecuting and punishing citizens for reasons relating to freedom of peaceful expression and association;

(c) Repeal all those legal provisions which entail discrimination between citizens on political grounds, in particular in the labour and education sectors, and redress as far as possible abuses committed in this area in the past, for example, by re-employing persons who have been dismissed in their former posts;

(d) Permit legalization of independent groups, especially those seeking to carry out human rights or trade union activities, and allow them to act within the law, but independently;

(e) Ensure greater respect for the guarantees of due process, in accordance with the provisions of the relevant international instruments, adopting in particular the measures necessary to facilitate effective access to legal assistance for all persons put on trial without any type of discrimination;

(f) Ensure greater transparency and guarantees in the prison system, so as to prevent excessive violence and physical suffering from being inflicted on prisoners. In this connection, it would be a major achievement to renew the agreement with the International Committee of the Red Cross and to allow independent national groups access to prisons;

(g) Release all those persons serving sentences for offences having political connotations and for trying to leave the country unlawfully;

(h) Eliminate the existing administrative barriers to departure from the country and to the entry of Cuban citizens resident abroad.

70. In early September 1993, the bishops of Cuba published a long pastoral letter analysing different aspects of the country's social, economic and political situation. In addition to the letter, the Special Rapporteur received a document signed by several groups considered dissident within Cuba, that had joined forces. Both the letter and document make a series of proposals, listed below, which were presented to the Government. The Special Rapporteur felt it was important to take note of these texts, since they are the products of real-life experiences and actual day-to-day contact with the realities of Cuban life.

71. The pastoral letter contains, inter alia, the following passage:

"It seems to us that, concomitant with certain economic changes in the life of the country now beginning to be put into practice, some of the irritating policies should be eradicated because it would generate unquestionable relief and a source of hope in the national soul.

"(1) The exclusive and ubiquitous presence of the official ideology, accompanied by identification of terms that cannot be construed as unambiguous: Fatherland and socialism, State and Government, authority and power, legality and morality, Cuban and revolutionary. This centralist and ideologically all-embracing role of the State generates a feeling of fatigue caused by constant repetition of guidance and instructions;

"(2) Limitations imposed not only on the exercise of certain freedoms, which could be occasionally justifiable, but also on freedom itself. A significant change in this policy would guarantee, inter alia, administration of an independent judiciary which would lead us, based on stable foundations, towards consolidation of the rule of law;

"(3) Excessive control by the State security agencies which at times reaches even into the strictly private lives of individuals. That explains fear, the origin of which is poorly understood, but felt as though it were caused by something ungraspable under a veil;

"(4) The large number of persons imprisoned for activities which might be decriminalized or reconsidered as a way to free many of those serving sentences for economic, political or other similar reasons;

"(5) Discrimination for philosophical, political or religious beliefs, the effective elimination of which would encourage participation of all Cubans, without distinction, in the life of the nation."

72. The dissident organizations group, for its part, speaks of a common platform: amnesty for political prisoners; restoration of the freedoms of association, speech, assembly and peaceful demonstration, the press, trade unionism, and the right to enter and leave the country; eradication of any form of social and political discrimination, safeguarding the national identity, independence and sovereignty. In addition, these organizations, distinguished by their peaceful modus operandi, have demonstrated their willingness to begin a dialogue with the authorities within the law.

73. The Special Rapporteur does not have sufficient information to express an opinion on whether or not the current system enjoys the support of the majority of the population. He nevertheless considers that the claim that this support has been broadly expressed in recent elections is not valid, since, given the conditions in which those elections were held, the electorate was never given a genuine choice. Only after the conditions for guaranteeing the right of opinion and expression have been created would it be possible to obtain a clear idea of the electorate's preferences with regard to various options.

74. In the opinion of the Special Rapporteur, the most constructive measures, in an international context, for improving the human rights situation in Cuba should start by eliminating, as soon as possible, the vestiges of the cold war as they relate to Cuba, while at the same time endeavouring to promote the country's return to the regional and world system of cooperation and settlement of conflicts. The Rapporteur has the impression that a few timid steps are now starting to be taken towards greater confidence between Cuba and its neighbours, particularly the United States. This may have a favourable repercussion in the matter of human rights.

75. Cuba's role in the cold war has vanished, along with the economic assistance it received from the former Soviet Union. Fundamental changes in the way the domestic economy operates are more effective than any other measure in enabling the nation to provide for its own citizens. To avoid traumatic and costly disruptions, these changes should be made without delay. The international community must encourage a reform programme designed to improve productivity and efficiency in the economy. Such reforms would naturally assume a greater area for market forces to operate and greater entrepreneurial freedom. The Special Rapporteur considers that incentives or, at the very least, a policy which does not obstruct changes in the current system, rather than pressure or external conditioning, are likely to produce reforms tending towards liberalizing not only the economy, but also political life. This opinion is not shared by all those concerned about Cuba's future, but the arguments in favour of ending the embargo are gaining ground, not only in industrial, economic and academic circles, but also in political circles where there is concern about the Cuban people and the future of the country.

Appendix I

LETTER DATED 24 AUGUST 1993 FROM THE SPECIAL RAPPORTEUR ADDRESSED TO THE PERMANENT REPRESENTATIVE OF CUBA TO THE UNITED NATIONS OFFICE AT GENEVA

I have the honour to refer to resolution 1993/63 adopted by the Commission on Human Rights on 10 March 1993 entitled "Situation of human rights in Cuba". As you know, this resolution was endorsed by the Economic and Social Council in its decision 1993/274, thereby confirming the extension of the Special Rapporteur's mandate for another year.

In paragraph 2 of resolution 1993/63, the Commission calls upon the Government of Cuba to permit the Special Rapporteur the opportunity to carry out his mandate in full, in particular by allowing him to visit Cuba, and, in paragraph 7, it requests the Special Rapporteur to maintain direct contact with the Government and the citizens of Cuba. In accordance with these provisions, it is my duty to write to you to request your Government's cooperation in the discharge of my mandate, including an opportunity to visit Cuba, in order to verify the human rights situation firsthand.

(Signed) Carl-Johan GROTH
Special Rapporteur on the Situation
of Human Rights in Cuba

Appendix II

STATEMENT MADE ON 29 NOVEMBER 1993 BY THE PERMANENT REPRESENTATIVE OF CUBA TO THE UNITED NATIONS DURING THE FORTY-EIGHTH SESSION OF THE GENERAL ASSEMBLY

Mr. President,

Thirty-five years ago Cuba was a neo-colony of the United States of America, and a repressive regime, with the full knowledge and support of the Government of that country, brutally violated the human rights of our people. The destinies of Cuba were decided upon in the United States Embassy, and more than 20,000 Cubans were murdered or made to disappear, with the assistance of United States instructors.

This was the result of a century of geo-political manoeuvring and of five military interventions by the United States. National independence, respect for human rights, the establishment of a democratic system and the implementation of a development project that responded to the hopes of the Cuban people were only achieved through a much-needed popular revolution in 1959.

During the past three decades, the United States has maintained a policy of hostility and aggression against Cuba, aimed at subverting and destabilizing Cuban society in order to deprive our people, once again, of their right to exercise their sovereignty, their liberty and national independence, and to restore its previous domination of our country.

This policy, which is in violation of the Charter of the United Nations and international law, has included: unceasing efforts to economically strangle Cuba from abroad through the economic, commercial and financial blockade which is still in place and has even been strengthened; mercenary military aggression that was at the time defeated, and a continuous military threat, compounded by the illegal presence of a military base in Cuban territory; economic sabotage and terrorist actions, including numerous attempts at assassinating Cuban leaders; illegal and subversive radio and television broadcasts beamed against our people with the futile aim of promoting subversion; and continuous disinformation and propaganda campaigns with the purpose of sowing confusion in world public opinion.

Cuba has expressed its readiness to work for normal relations and cooperation with all States without exception and has demonstrated that it is prepared to engage in dialogue in the context of respect and sovereign equality.

Nevertheless, now that the cold war has come to an end, the United States has redoubled its anti-Cuban policy obviously obsolete, fraught with double standards and useless in its purpose of breaking the will of the Cuban people to resist.

The fact cannot be ignored that during the past three decades, and even at present, our national life has been influenced by the exceptional circumstance of having to face the extremely powerful threat to our existence

represented by United States policy against Cuba. The only thing that explains that, under those conditions, the Cuban revolution has been able to continue is the support and participation of the immense majority of our people in this effort of national resistance.

That is why today the Cuban Government and people can show the world, with legitimate satisfaction, that they are involved in a titanic effort to preserve our enormous achievements in the field of human rights, and not only of economic, social and cultural rights, which few would dare to question, but also of the deepening and expansion of democratic participation in the governance of the country and the enjoyment of civil and political rights.

The rights to life, work, education, health and social security are guaranteed to all citizens without distinction. Cuba can show a clean record of full enjoyment of human rights and social development indexes that are among the highest in the world.

Prevailing new international circumstances and the reinsertion of the Cuban economy into the world market have led us to a deep and bold process of transformation.

The opening of different sectors of the economy to foreign investment, the expansion of the private sector, the free circulation of foreign currency, the increase of cooperatives in agriculture and steps geared at government reorganization are significant changes carried out in the past few years.

In the political sphere, these changes have been accompanied by a reform that expanded the rights enshrined in the Cuban Constitution approved in a referendum by 97 per cent of all Cubans. A new Electoral Law was promulgated, establishing free and direct elections to elect the Parliament, through candidates directly nominated by the electorate.

In 1993, the most open elections in Cuban history were held, and with the highest participation, in the presence of thousands of guests, journalists and foreign tourists, in which 99 per cent of the electorate participated. Ninety-three per cent of them ratified, with their free and secret ballot, which was justly termed a true plebiscite by the press agencies, their support for the Cuban national undertaking.

The manipulation of the human rights issue for political ends and the slander campaign aimed at presenting a situation of violation of human rights in Cuba are a recourse of United States policy aimed at compelling internal change by force, favouring subversion and destabilization, and creating an international climate conducive to an intensification of the strangling of my country. All this is carried out without discarding a number of preposterous studies and apocalyptic recommendations made by institutions of the Government of the United State regarding the creation of a scenario propitious for a so-called humanitarian intervention in the face of alleged civil strife and internal disorder in Cuba, much sought by them.

The actions taken by the Government of the United States on the pretext of its concern for human rights are nothing but another facet of the aggressive and hostile policy with which it intends to subordinate and

amputate our national identity. These are the real reasons underlying their actions and no one should be fooled What is really under attack is the very existence of Cuba as a nation.

Once again the United Nations is compelled to carry out a sterile exercise resulting from the insistence by the United States in a slanderous resolution on an ambiguous and grey report of a so-called Special Rapporteur.

The alleged situation of human rights in Cuba, in all historical truth, was orchestrated as a consequence of political manipulations carried out by the Government of the United States, which imposed in Geneva the special monitoring mechanism of human rights applied against my country in a selective and discriminatory manner.

As is well known, this mechanism was perverted from its origins, since it is the result of a flagrant violation of all existing procedures, of the undue and dishonest use of precedents regarding other situations, and of the disregard for the activities carried out regarding this case by the pertinent United Nations bodies. Thus, we are faced with a totally artificial and illegitimate scenario, which Cuba considers null and void in all its aspects.

The truth is that to achieve their objective of manipulating the human rights mechanisms and procedures of the United Nations and of transforming them in a weapon of their policy vis-à-vis Cuba, the United States has followed the tortuous path of successive and deliberate steps that have increasingly contravened the principles and norms governing the functioning of this Organization. Those steps, in all cases, have had no basis whatsoever and have not been justified by the facts, as Cuba had systematically denounced on every occasion.

As many have appreciated, the report of the so-called Rapporteur and his lukewarm presentation before this Committee do not reflect, and cannot in any way reflect, a situation of human rights violations that does not exist. Nevertheless, the report is very far from Cuba's reality, while the resolution which is now being imposed is, at the same time, very far from the situation described in the said report. By this means, the delegation of the United States once again takes pride in continuing those manipulations to which it has accustomed us, aimed at artificially furthering this issue.

Cuba declares that it does not recognize nor will it recognize any spurious, selective and discriminatory procedures in the field of human rights; at the same time, it commits its already traditional cooperation with all mechanisms and procedures applied to all States in the field of the promotion of human rights; and it reiterates its readiness to discuss any issue in that regard in the appropriate forums and on the basis of sovereign equality and of the principles of comprehensiveness, universality, interdependence and interrelationship of all human rights, as enshrined in the Vienna Declaration.

My country has nothing to fear or to be ashamed of in the field of human rights, but it does not agree, and will in no way agree to subject its sovereign Constitution, its own legal order and the political, social and economic organization chosen by its people to the illegitimate and unjustified scrutiny of a major Power.

My people has struggled for more than a century, has faced serious dangers and is today facing sufferings to preserve the nation's independence. When independence has been earned, it is not given away through dubious political settlements precisely with those who attempt to ignore it.

The Government of the United States, promoter of the farce that gave rise to the so-called Special Rapporteur and his report, has no moral nor political authority whatsoever to set itself up as judge and jury of human rights in Cuba. And the reason is not only that it is a confirmed violator of human rights in its own territory and that it has supported all military dictatorships and repressive regimes which have existed in the post-war era, but also, and very particularly, the fact that it has maintained, without any justification, the economic commercial and financial blockade against my country, which constitutes a cruel and inhuman measure, flagrantly violating the human rights of my people and ignoring the will of the General Assembly, which has condemned it as a clear violation of the Charter and of international law.

If the extraordinary circumstances faced by my country were to be modified, if hostility and strangling were to be replaced by a constructive attitude, if the path of transformations we have sovereignly chosen were not hindered, a qualitatively new and favourable situation would emerge, from any honest point of view, for the fullest enjoyment of human rights.

In any case, and in spite of those accusing us today, our people will continue to be faithful to the example set by José Martí and to his thinking, when he enunciated the idea which, from our sovereign Constitution, presides over our independent Republic: "With all, and for the benefit of all".

Thank you very much.

Notes

1/ A/CONF.157/23.

2/ Throughout this report the names of groups and their posts are used as transmitted to the Special Rapporteur by non-governmental sources.

3/ International Labour Organisation, 79th session, 1992, Report III (Part 4A), Report of the Committee of Experts on the Application of Conventions and Recommendations (Geneva, 1992), p. 410-411.

4/ Ibid., 80th session, 1993, pp. 361-362.

5/ Ibid., p. 364.

6/ E/CN.4/1993/39, para. 57.

7/ International Labour Office, 287th report of the Committee on Freedom of Association, 27-29 May 1993 (GB.256/7/12).

8/ El País, 7 November 1993.

9/ For this case, see E/CN.4/1993/39, para. 54 (b).

10/ International Labour Conference, seventy-ninth session, 1992, ... p. 409.

11/ Ibid., eightieth session, 1993, p. 363.

12/ E/CN.4/1989/46, paras. 124, 128, 130, 143 and 144.

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Fiftieth session
Item 12 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Cooperation with representatives of United Nations human rights bodies

Report of the Secretary-General in accordance with Commission on Human Rights resolution 1993/64

GE.94-10553 (E)

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INTRODUCTION

1. At its forty-ninth session, the Commission on Human Rights adopted resolution 1993/64 in which the Commission, reiterating its concern at the continued reports of intimidation and reprisals against private individuals and groups who sought to cooperate with the United Nations and representatives of its human rights bodies and at reports about incidents where private individuals had been hampered in their efforts to avail themselves of procedures established under United Nations auspices for the protection of human rights and fundamental freedoms, urged Governments to refrain from all acts of intimidation or reprisals against: (a) those who seek to cooperate or have cooperated with representatives of United Nations human rights bodies, or who have provided testimony or information to them, (b) those who avail or have availed themselves of procedures established under United Nations auspices for the protection of human rights and fundamental freedoms and all those who have provided legal assistance to them for this purpose; (c) those who submit or have submitted communications under procedures established by human rights instruments; and (d) those who are relatives of victims of human rights violations.

2. The Commission requested all representatives of United Nations human rights bodies, as well as treaty bodies monitoring the observance of human rights, to continue to take urgent steps, in conformity with their mandates, to help prevent the hampering of access to United Nations human rights procedures in any way and to help prevent the occurrence of such intimidation or reprisals, as well as to continue to include in their respective reports to the Commission on Human Rights, the Sub-Commission on Prevention of Discrimination and Protection of Minorities or the General Assembly a reference to allegations of intimidation or reprisals and of hampering access to United Nations human rights procedures, as well as an account of action taken by them in this regard.

3. The Commission also requested the Secretary-General to draw the attention of such representatives to the resolution and invited him to submit to the Commission at its fiftieth session a report containing a compilation and analysis of any available information, from all appropriate sources, on alleged reprisals against those referred to in the resolution.

I. INFORMATION RECEIVED PURSUANT TO COMMISSION ON HUMAN RIGHTS RESOLUTION 1993/64

4. Information received pursuant to resolution 1993/64 covers a variety of situations in which persons have been intimidated or prevented from availing themselves of domestic or international procedures or have suffered reprisals for having done so or for having provided information on violations of human rights.

5. In cases in which the victims were individuals or organizations having been in contact with one of the bodies of the Commission on Human Rights, action was taken, whenever requested, for their protection by the relevant body or the representative in charge of the relevant mandate of the Commission. In most cases the relevant body addressed urgent communications to the Government concerned. This prompt intervention procedure is described

in a previous report to the Commission under this item (see E/CN.4/1992/25, paras. 14-18). The action taken during 1993 is described in the following section, which contains a summary of the cases and the replies received from the Governments to which they were transmitted.

6. Other relevant information received under resolution 1993/64 consisted of reports of a more general nature in which a review of persecution and intimidation against particular groups of individuals or members of the reporting organization is made and which also include an analysis of the causes and consequences of such intimidation or reprisals in the context of a certain field of activities or a country situation. Generally, these reports did not contain a request for the protection of specific individuals but rather drew the attention of the international community to the need to protect human rights defenders.

7. Americas Watch provided a briefing paper concerning Mexico in which reference was made, inter alia, to the situation of non-governmental human rights organizations in that country. Americas Watch expressed the view that most of those associations had been able to operate with little open interference, though their activities were sometimes hindered by acts of intimidation, including phone tapping, "friendly warnings" from acquaintances within the government, threats on telephone answering machines, theft of files and, occasionally, death threats.

8. Amnesty International communicated a number of reports concerning acts of harassment or intimidation against human rights activists or non-governmental organizations. For example, in a report regarding Cambodia, it was pointed out that members of human rights groups had been subjected to intimidation by State authorities. In Colombia, military intelligence was reported to have compiled a list of about 150 human rights workers, trade unionists and grass-roots leaders whom it claimed were collaborators or supporters of guerrilla groups. This list, if published, would reportedly expose them to human rights violations. Also in Colombia, members of human rights organization such as the Regional Human Rights Committee (CREDHOS) were said to have been the victims of threats and harassment by members of the security forces; members of the Association for the Families of the Detained and Disappeared in Colombia (ASDFADDES) had reportedly been victims of persistent undercover surveillance, harassment and intimidation by members of the Colombian army's intelligence unit (B-2) during their annual convention in Bogotá in November 1993. In a report on Myanmar, mention was made of the military authorities having deterred most of the population from public opposition through surveillance activities, intimidations and threats to anyone who may have criticized the military in the past or was likely to do so in the future. In the Philippines, two human rights activists, including a worker at Amnesty International's national office, were detained for several hours in the night of 11 to 12 October 1993 by six men believed to be military agents. After their release, their house was kept under surveillance and their family went into hiding, fearing for their safety. Similar reports were also received concerning Guatemala, Turkey and Rwanda.

9. The Andean Commission of Jurists (Colombian Section), in a document dated January 1993, also reported on attacks on members of non-governmental human

rights organizations in Colombia. The report stated in particular that since the middle of 1991, several members of CREDHOS in Barrancabermeja, in the State of Santander, had been murdered.

10. The Guatemalan Human Rights Commission, in a report submitted to the forty-eighth session of the General Assembly, asserted that activities for the promotion and defence of human rights in Guatemala were considered as opposition to the Government, and as such subjected to repression. The defenders of human rights continued to be harassed, intimidated and subjected to surveillance. The army had carried out extrajudicial executions and disappearances, searched offices and destroyed paperwork, and had temporarily detained members of human rights organizations in order to interrogate them about their work.

11. A report on the harassment and persecution of judges and lawyers during the period June 1992 to June 1993 was received from the Centre for the Independence of Judges and Lawyers of the International Commission of Jurists. This report stated that death threats against human rights lawyers continued to occur in an attempt to deter those lawyers from carrying out certain professional duties. This trend had reportedly increased in Northern Ireland, Sri Lanka, Argentina and Brazil. In many countries, lawyers were punished for their human rights work. In Mauritania, for instance, 23 defence lawyers were facing harassment by the Government, including excessive taxation and severing of contracts with governmental bodies, because they were fighting against the impunity granted to several military officers who had been involved in the execution of more than 500 black Mauritanians between 1989 and 1992. In Turkey, several lawyers associated with the People's Legal Aid Bureau were being detained and tried. Lawyers affiliated with the Turkish Human Rights Association were also targeted. The Chairman of this association in Elazig, attorney Metin Can, was killed in February 1993. Jurists involved in human rights activities were also arbitrarily detained in Nigeria, Cameroon, Ghana and Indonesia.

II. ALLEGATIONS OF INTIMIDATION AND REPRISAL RECEIVED AND PROCESSED BY REPRESENTATIVES OF UNITED NATIONS HUMAN RIGHTS BODIES

12. This chapter contains a summary of the information received and the action taken during 1993 by representatives of the Commission on Human Rights in pursuance of resolution 1993/64. The acts of reprisals reported ranged from veiled threats to extrajudicial executions. All the alleged victims were private individuals or members of non-governmental organizations which were or had been a source of information about human rights violations for United Nations human rights bodies. It must be noted with particular concern that the number of cases in which persons who had personally met with representatives of the Commission or of other United Nations human rights bodies and had subsequently suffered reprisals for doing so has increased. Such cases were reported to have occurred in Rwanda, in Haiti, in the Islamic Republic of Iran and in the Sudan.

A. Special Rapporteur on extrajudicial, summary or arbitrary executions

13. In 1993, the Special Rapporteur continued to send urgent communications to Governments to ensure effective protection of those reportedly under threat or at risk of execution. In those cases he urged the competent authorities to carry out full, independent and impartial investigations and to adopt all necessary measures to prevent future violations of the right to life and requested to be kept informed about all steps taken in this regard. In the cases described below, in which members of human rights organizations who had provided information to United Nations human rights bodies had received death threats or were in danger of imminent extrajudicial, summary or arbitrary execution, the Special Rapporteur made specific reference to resolution 1993/64.

14. It must be noted that the summaries included below reflect urgent appeals and replies from Governments only to the extent that they have been included in the latest report of the Special Rapporteur (E/CN.4/1994/7), which contains information up to 22 November 1993.

Argentina

15. On 5 August 1993 at 3 a.m., unidentified individuals rang the bell of Hebe Bonafini's home and shouted through the door, "If you do not shut your mouth we will shut it with bullets". The threat followed her denunciation the previous night during a radio broadcast of the killing of five adolescents a few days before in Buenos Aires province, allegedly by members of the police. Hebe Bonafini is the President of the non-governmental organization Mothers of Plaza de Mayo. This was not the first time she had received anonymous death threats for her outspoken condemnation of the human rights situation in Argentina.

Colombia

16. Members of CREDHOS, based in Barrancabermeja, were reportedly victims of harassment and received veiled death threats from local military officials as a result of their human rights work. Similar threats had in the past been followed by physical attacks against CREDHOS workers, and three members of the organization had been killed in 1992 in circumstances suggesting extrajudicial executions.

Guatemala

17. Oswaldo Enríquez Contreras, a leading member of the Human Rights Commission of Guatemala (CDHG, Comisión de Derechos Humanos de Guatemala), reportedly received anonymous telephone calls in which he was threatened with death if he continued his activities as a defender of peasants and "communists". Telephone death threats were also said to have been received by his father, Ricardo Enríquez, his brother, Dr. Roberto Enríquez, and his sister-in-law, Maria Elena Enríquez.

18. On 2 September 1993, a bomb reportedly exploded in the offices of the Mutual Support Group for the Reappearance of our Relatives Alive (GAM, Grupo

de Apoyo Mutuo por el Aparecimiento con Vida de Nuestros Familiares). A few hours later, another human rights organization, the Relatives of Detained and Disappeared of Guatemala (FAMDEGUA, Familiares de Detenidos y Desaparecidos de Guatemala), reportedly received threats that a bomb would be placed in their building if they did not close their offices, which are situated close to those of GAM. These threats were allegedly repeated during the following weeks.

19. On 10 September 1993, a bomb reportedly exploded at the offices of the Guatemalan Association of Jurists (AGJ, Asociacíon Guatemalteca de Juristas), causing serious damage to furniture and documentation but not harming anybody. On the same day, two armed men were said to have arrived at the First Settlement of Internally Displaced Persons Mario Antonio Díaz (Primer Asentamiento de Desplazados Internos Mario Antonio Díaz) and asked to speak to the leaders of the National Council of the Displaced of Guatemala (CONDEG, Consejo Nacional de Desplazados de Guatemala). A few minutes later, they reportedly fired some 14 shots into the air, thus trying to intimidate both the families living in the settlement and members of CONDEG.

20. On 11 and 14 September 1993, armed men reportedly fired shots outside the house of Nineth Montenegro, President of GAM, and a well-known human rights activist. Slogans painted on walls in the capital were said to have accused her as being a "traitor".

21. On 5 October 1993, the self-proclaimed "Roberto Lorenzana Anti-Communist Movement" reportedly slipped a leaflet under the doors of various human rights associations in which 23 persons, many of them well known for their human rights activities, were threatened with death. Among those on the list were Rosalina Tuyuc, Rosario Pu Gómez, Nineth Montenegro, Byron Morales and Otto Peralta. The same leaflet also accused Nobel Peace Prize laureate Rigoberto Menchú of having links with the National Revolutionary Unit of Guatemala (URNG, Unidad Revolucionaria Nacional de Guatemala).

Rwanda

22. Ignace Ruhatana, Permanent Secretary of the Association for the Promotion of Unity and Social Justice (KANYARWANDA, Association pour la promotion de l'union pour la justice sociale) was wounded in an assault by armed men during the night of 3 to 4 May 1993. This attack was reportedly related to his human rights activities, in particular his documentation of grave violations of human rights attributed to the Rwandese security forces. He had personally provided testimonies and documents to the Special Rapporteur on extrajudicial, summary or arbitrary executions during his mission to Rwanda in April 1993.

Turkey

23. Fewzi Veznedaroglu, human rights lawyer and Chairman of the Diyarbakir branch of the Human Rights Association (IHD), reportedly received death threats, at least some of which had allegedly come from members of the Turkish security forces. On 25 December 1992, in front of the IHD building, two plain clothes police officers reportedly told Mr. Veznedaroglu, "If you do not stop those activities, you will end up like the others", allegedly referring to the murder in 1991 of Vedat Aydin, his predecessor as Chairman of the IHD.

On 30 December, Mr. Veznedaroglu reportedly received several anonymous telephone calls at the IHD office giving him a similar message. It was alleged that those threats were related to his defence of political prisoners and documentation of cases of human rights violations in south-east Turkey.

24. Concerning this case, the Government of Turkey replied that Fevzi Veznedaroglu had not filed any complaint against the police officers allegedly threatening him, either with the prosecutor's office of Diyarbakir or the prefect. However, a detained member of the PKK had stated that the PKK planned to assassinate Fevzi Veznedaroglu and other personalities in a way that their killing would be perceived as having been committed by the security forces. Whereas two others were immediately warned by the security forces, Mr. Veznedaroglu could not be reached as he was abroad, but was advised through a colleague to contact the Security Directorate upon his return.

25. In a follow-up letter addressed to the Government of Turkey, the Special Rapporteur transmitted additional information he had received concerning the case of Fevzi Veznedaroglu. It had been alleged that the detainee who had stated that the PKK was planning his assassination had been forced to do so by the security forces.

26. Metin Can, lawyer and Chairman of IHD in Elazig, reportedly received on 21 February 1993 a phone call from someone claiming to be a policeman. He was told that one of his clients had been involved in a car accident and that he should come to the police station immediately. Mr. Can contacted Dr. Hassan Kaya, a medical doctor, and the two left for the police station in Mr. Can's car. They were never seen again alive. On 22 February, Fatma Can, Mr. Can's wife, reportedly received a phone call from an unknown person who said: "We killed Metin and Hassan. Our condolences". Mr. Can's car was found the same day. Other family members reportedly also received troubling phone calls.

27. As regards this case, the Government replied that both men had been found dead under a bridge near Tunceli. Investigations had been opened by the competent authorities in Tunceli. In conformity with the Code of Criminal Procedure, however, the pertinent documents could only be consulted by the defence of those accused.

28. Mrs. Fatma Can reportedly received death threats in connection with the killing of her husband. She was said to be one of the two people who saw and could possibly identify the two men who had abducted her husband. The second person who could possibly identify the presumed perpetrators reportedly fled the country.

29. In a follow-up letter addressed to the Government of Turkey, the Special Rapporteur transmitted additional information he had received concerning the case of Metin Can and Hassan Kaya. It had been stated that the authorities had not taken any action to determine the whereabouts of the two men between their disappearance on 21 February 1993 and the discovery of their bodies on 27 February 1993. It had been alleged that the killing could be linked to the "Kontrgerilla" and the security forces.

30. On 12 March 1993 Hafiz Uzun, representative of IHD in Lice, was reportedly arrested while taking a group of German visitors to a house which was said to have been set on fire by the security forces. It was alleged that during his subsequent detention at Lice Gendarmerie Headquarters, a captain had threatened to kill him and his family. He was released conditionally after his first hearing on 9 June. It was alleged that he had been subjected to torture during his detention. Late on the night of 23 June 1993, his house was reportedly raided by Special Team members and soldiers, who allegedly threatened in front of his wife and children to kill him. On the morning of 24 June, he was again surrounded by Special Team members and soldiers on the streets, who reportedly once more threatened to kill him unless he left the town.

31. The Government replied that Hafiz Uzun had been arrested and brought before the Diyarbakir State Security Court, which acquitted him of charges of having offered assistance and shelter to terrorists. While detained at Diyarbakir prison, he had lodged a complaint alleging that the Commander of the Lice County Unit had threatened to kill him. Investigations had been opened into those allegations. No other complaints had been filed by Hafiz Uzun.

B. Working Group on Enforced or Involuntary Disappearances

32. Information was received by the Working Group from the Hondurian Commission for Human Rights (CODEH, Comité para la Defensa de los Derechos Humanos en Honduras) regarding harassment and intimidation by agents of the Government of the Commission's President and treasurer, reportedly because of their having denounced the situation of impunity in the country and calling for the creation of a technical police for criminal investigations. The Working Group drew this case to the attention of the Government of Honduras through the "prompt intervention procedure" (see E/CN.4/1994/26, para. 235).

C. Independent Expert on the situation of human rights in Guatemala

33. In his analysis of the human rights situation in Guatemala, the Independent Expert reported several cases of human rights violations against members of human rights organizations (see E/CN.4/1994/10). These include the disappearance, on 19 October 1993, of Francisco Guarcas Cipriano, a member of the Mutual Support Group for the Reappearance of our Relatives Alive (GAM, Grupo de Apoyo Mutuo por el Aparecimiento con Vida de Nuestros Familiares), after his abduction in Guatemala City by four collaborators of the army and former members of the civil self-defense patrols (PAC, Patrullas de Autodefensa Civil), and the detention, on 27 October 1993, of Marco Choco Damas, member of the National Council of the Displaced of Guatemala (CONDEG, Consejo Nacional de Desplazados de Guatemala). In her report, the Independent Expert also reflected death threats against several human rights activists contained in a leaflet signed by the "Roberto Lorenzana Anti-Communist Movement", and threats against the offices of the Association for the Advancement of Social Sciences in Guatemala (AVANCSO, Instituto para el Avance de las Ciencias Sociales) and against Factor Méndez Doninelli, a leading member of the Centre for the Investigation, Study and Promotion of Human Rights (CIEDPRODH, Centro de Investigación, Estudios y Promoción de los Derechos Humanos en Guatemala). The killing, on 30 April 1993, of

Tomás Lares Cipriano, member of the Council of Ethnic Communities "We are all Equal" (CERJ, Consejo de Comunidades Etnicas "Runujel Junam") and the Committee for Peasant Unity (CUC, Comité para la Unidad Campesina), who had previously received death threats on several occasions, was also mentioned in the report by the Independent Expert. Police protection for Tomás Lares Cipriano had been ordered but not come into effect.

D. Special Rapporteur on the situation of human rights in Haiti

34. The Special Rapporteur received information according to which members of the International Civilian Mission established in Haiti by the United Nations and the Organization of American States on the situation of democracy and human rights in Haiti, as well as persons in contact with it, were subjected to acts of intimidation and provocation (see E/CN.4/1994/55). On 9 May 1993, Mrs. Illia Davilma was reportedly summarily executed by members of the military in Cité Soleil, Port-au-Prince, for having informed members of the International Civilian Mission of the situation of repression in the country. Furthermore, according to the report of the International Civilian Mission to the General Assembly (A/48/532/Add. 1, para. 14), since the Mission's evacuation on 15 and 16 October 1993, it had received reports that specific threats had been made to local employees of the Mission and to people who had been in contact with it.

E. Special Representative on the situation of human rights in the Islamic Republic of Iran

35. During his third visit to the Islamic Republic of Iran, the Special Representative met with Bihnam Mithaqi and Kayvan Khalajabadi, two Baha'is detained at Evin prison in Teheran. On 30 December 1993, the Special Representative sent an urgent appeal to the Government of Iran, after he had received information according to which those two persons were possibly facing imminent execution because their death sentences had been reaffirmed on 23 November 1993. It had been reported that paragraph D of Verdict No. 81 charged them, inter alia, with transmitting information to the United Nations, presumably a reference to the interviews they had had with the Special Representative during his last visit (see E/CN.4/1994/50).

F. Special Rapporteur on the situation of human rights in the Sudan

36. The Special Rapporteur received reliable information according to which several persons who had tried to contact the United Nations office during his visit to the Sudan in September 1993 or who had actually met the Special Rapporteur in relation to his mandate had been questioned and arrested by police and security forces (see E/CN.4/1994/48).

37. Aliaba James Surur, a priest who met with the Special Rapporteur on 12 September 1993, was, according to his account, picked up at his home the following morning at 7 a.m. and taken to Security Headquarters at Khartoum, where he was kept for five hours. He claimed to have been told, "Be careful, the Special Rapporteur is now still here, but he will leave in two weeks and you will remain here".

38. On 19 September 1993, two representatives of groups of displaced students from southern Sudan presented a memorandum to a United Nations official at Khartoum, protesting against the closure of their schools. One of them, John Lokwer, was reportedly arrested after he left United Nations premises. His arrest was reported to the United Nations official the next day by two persons representing a group of students who had gathered in front of the United Nations compound. Uniformed and armed police and security personnel were present at the peaceful demonstration. The two students who reported the arrest were accompanied by a uniformed police officer and a security officer. As the police and the security officers left United Nations premises, they promised that John Lokwer would be released. A few minutes later a number of students were reportedly rounded up by the police in front of the United Nations office. Later, the authorities announced that the students had been released, but at the time of the finalization of his report, the Special Rapporteur had received no confirmation.

39. At 1.30 p.m. on 23 September 1993, four women who had just communicated information to the Special Rapporteur were arrested by members of the police in front of the United Nations office at Khartoum. The Special Rapporteur witnessed two women being dragged on the street and forced into a police vehicle. A few minutes later, the police, before many witnesses, arrested a group of about 25 persons, mainly women, who had been waiting in front of the United Nations office to meet the Special Rapporteur. Several were reportedly beaten up by police officers. The arrests took place despite reported assurances from government authorities that the peaceful assembly of the petitioners would not be interfered with. These persons were finally released, but some of the women were threatened, exposed to degrading treatment and abused verbally during their interrogation by security officers.

40. During his mission to the Sudan in September 1993, the Special Rapporteur raised several of the above cases with the Minister of Justice, who promised that he would look into them. In his statement to the General Assembly on 24 November 1993, the Minister of Justice referred to the incident of 23 September 1993, stating that the four women and the other persons concerned had been arrested because they had chosen to see the Special Rapporteur in an unlawful "procession" which violated the law relating to peace and order. He stated, however, that all persons arrested had been released unharmed. In its comment on the interim report of the Special Rapporteur to the General Assembly (A/48/601), the Government further stated that the persons participating in the assembly had not obtained the required permission. In addition, it was the responsibility of the Government to protect the Special Rapporteur and the United Nations Office against any violence (A/C.3/17, para. B 16).

41. With respect to these incidents, the Special Rapporteur expressed strong concern that those who had contacted the United Nations office during his mission and had come to speak with him had been subjected to reprisals. He stated that this fear was warranted given the apparent threat directed against Aliaba James Surur, as referred to above. The Special Rapporteur also noted that, notwithstanding any consideration of the validity of the laws which may have been invoked, the effective result of these incidents was interference with his investigations.

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Final report on the situation of human rights in Afghanistan submitted by Mr. Felix Ermacora, Special Rapporteur, in accordance with Commission on Human Rights resolution 1993/66

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Introduction

1. The Special Rapporteur was first appointed to examine the human rights situation in Afghanistan in 1984 by the Chairman of the Commission on Human Rights, who had been requested to do so by the Economic and Social Council in its resolution 1984/37 of 24 May 1984. Since then, his mandate has been renewed regularly by the Commission, in resolutions endorsed by the Council, in which the Special Rapporteur was requested to report to the Commission and to the General Assembly. So far, he has submitted nine reports to the Commission (E/CN.4/1985/21, E/CN.4/1986/24, E/CN.4/1987/22, E/CN.4/1988/25, E/CN.4/1989/24, E/CN.4/1990/25, E/CN.4/1991/31, E/CN.4/1992/33 and E/CN.4/1993/42) and nine to the General Assembly (A/40/843, A/41/778, A/42/667 and Corr.1, A/43/742, A/44/669, A/45/664, A/46/606, A/47/656 and A/48/584).

2. At its forty-ninth session, the Commission on Human Rights decided, by its resolution 1993/66 of 10 March 1993, to extend the mandate of the Special Rapporteur for one year, an extension confirmed by the Economic and Social Council in its decision 1993/275 of 28 July 1993. The Special Rapporteur submitted an interim report (A/48/584) to the General Assembly at its forty-eighth session containing preliminary conclusions and recommendations. The General Assembly, taking note with appreciation of the report, adopted without a vote resolution 48/152 on 20 December 1993, by which it decided to keep under consideration during its forty-ninth session the situation of human rights in Afghanistan, in the light of additional elements provided by the Commission on Human Rights and the Economic and Social Council.

3. Subsequent to the renewal of his mandate by the Commission on Human Rights at its forty-ninth session, and in accordance with past practice, the Special Rapporteur again visited the area in order to obtain the most broadly based information possible. He visited Pakistan on 13, 17, 18 and 20 September and Afghanistan on 14, 15, 16 and 19 September 1993. His findings are reflected in the interim report to the General Assembly (A/48/584).

4. In keeping with past practice, the Special Rapporteur intended to visit Afghanistan and Pakistan with a view to finalizing his report to the Commission on Human Rights at its fiftieth session. He had planned to travel to the area from 2 to 7 January 1994 but had to cancel the trip for reasons of health at the end of December 1993. The Special Rapporteur nevertheless envisaged to carry out his visit in mid-January 1994. Owing to the heavy fighting which broke out in Kabul and other parts of Afghanistan on 1 January 1994, the Special Rapporteur was unable to carry out the planned visit and was therefore unable to meet with the competent political and other personalities in the area. Nevertheless, the Special Rapporteur followed the developments in Afghanistan on a daily basis. Deeply shocked at the armed hostilities in Kabul and other parts of Afghanistan which erupted with unprecedented intensity on 1 January 1994 resulting in severe loss of life, mostly among innocent civilians, the Special Rapporteur issued a statement on 11 January 1994 in which he condemned the armed hostilities in Afghanistan and appealed to all parties to respect human rights. He continued to follow the situation closely and took note of the statements issued by the United Nations Secretary-General, the President of the Security Council and the Personal Representative of the Secretary-General in Afghanistan and Pakistan on 12, 24 and 31 January 1994 respectively in which they deplored the continued large-scale fighting in Afghanistan and the suffering it has imposed

on innocent civilians. He also held consultations in Geneva with representatives of the Office of the United Nations High Commissioner for Refugees and of the International Committee of the Red Cross. The Special Rapporteur was also able to meet with representatives of various organizations and individuals in New York, Geneva and Vienna.

5. However, at the beginning of February 1994, the Special Rapporteur learned that high-level delegations of both warring sides, those supporting the President and those allied with the Prime Minister, were in Islamabad and Peshawar. Meeting with them and other non-combatant leaders would have enabled the Special Rapporteur to obtain first-hand information about the situation currently prevailing in Afghanistan. It would also have afforded him the opportunity to discuss with the competent persons the human rights aspect of the situation since 1 January 1994. Therefore, the Special Rapporteur wrote on 4 February 1994 to the Assistant Secretary-General for Human Rights and met with him on 7 February in order to obtain the clearance to undertake a visit to the area which was requested by numerous competent persons. He was, unfortunately, not authorized to carry out the mission on the grounds of the lateness of the date in relation to the consideration of item 12 of the agenda of the Commission on Human Rights. While appreciating the need for deadlines in this regard, the Special Rapporteur nevertheless feels that exceptional situations warrant an exception and wishes to express his disappointment that he was unable to fully carry out his mandate.

6. For the purpose of drafting the present report in the most impartial and objective manner possible, the Special Rapporteur studied with keen interest and systematically evaluated the abundant written information relevant to his mandate which has appeared in the national and international press. He has also consulted various reports concerning the situation of human rights in Afghanistan prepared by United Nations bodies and specialized agencies, in particular that prepared by the Office of the Personal Representative of the Secretary-General in Afghanistan and Pakistan and Coordinator for Humanitarian Assistance to Afghanistan (OSGAP/UNOCHA). The Special Rapporteur has studied with particular attention the oral and written information provided to him by non-governmental organizations which deal with the human rights and humanitarian aspects of the Afghan issue such as Amnesty International, the International League for Human Rights and the Afghan League for Human Rights.

7. The Special Rapporteur would like to express his sincere gratitude to the Office of the United Nations High Commissioner for Refugees, the International Committee of the Red Cross, the Office of the Personal Representative of the Secretary-General in Afghanistan and Pakistan and Coordinator for Humanitarian Assistance to Afghanistan, the International League for Human Rights and Amnesty International for the invaluable assistance they have provided to him in the drafting of the present report, which was finalized on 11 February 1994.

8. Chapter I of the present report contains an outline of the general situation in Afghanistan and describes the events which have taken place there since the submission of the Special Rapporteur's report to the General Assembly. In addition, it dwells on the problems of human rights in

the light of the current political situation in the country. Chapter II deals with the problem of refugees and displaced persons while Chapter III describes the action undertaken by the international community. Chapter IV considers other human rights issues in Afghanistan. Chapter V contains the conclusions and recommendations which the Special Rapporteur has drawn from the analysis of the available information.

I. OUTLINE OF THE GENERAL SITUATION IN AFGHANISTAN

A. Events in Afghanistan since the submission of the previous report (A/48/584)

9. The overall political situation which affects the situation of human rights in Afghanistan has not changed substantially since the Shura-Ahl-e-Hal Wa Aqd (Council for the solving of problems and making of agreements) was held in Kabul on 29 December 1992 and on which the Special Rapporteur reported in detail. Mr. Rabbani, the head of the Jamiat Islami political party and the only candidate for the position of president, was elected by 916 votes in favour to 59 against. The shura was contested as not being held in conformity with Islamic law and was boycotted by the leaders of five of the nine political parties. The representatives of the political parties which did not participate in its deliberations met in January 1993 at Jalalabad, the capital of Nangarhar province, and issued a four-point declaration. Various other Afghan political factions presented alternative proposals, none of which could be implemented.

10. Since the existing political tensions were not reduced, the different political parties accepted the good offices of Saudi Arabia, the Islamic Republic of Iran and Pakistan and decided to meet at Islamabad. A 10-point Afghan Peace Accord, to which was annexed a document entitled "Division of Powers", was adopted on 7 March 1993 (for the texts, see S/25435) but was implemented only very partially.

11. As the implementation of the Islamabad Accord proved difficult, the leaders of the Afghan political parties met once again at Jalalabad, in Nangarhar province, between 30 April and 17 May 1993 and concluded and signed an accord in which, inter alia, a certain number of ministerial portfolios were distributed. The Accord concluded at Jalalabad contains the Charter of the Supreme Council of the Islamic State of Afghanistan whose role was to provide guidelines concerning the daily conduct of political affairs. The Accord also provided for the establishment of an Election Commission and set out its Charter. All the parties and groups concerned had agreed to the formation of a government for a period of 18 months, i.e. up to June 1994, in which Mr. Burhanuddin Rabbani would remain President and Mr. Gulbuddin Hekmatyar or his nominee would assume the office of Prime Minister. It was decided that during the two months following the signing of the Accord, the President would look after the Ministry of Defence while the Prime Minister would be in charge of the Ministry of the Interior. Mr. Gulbuddin Hekmatyar was sworn in as Prime Minister on 17 April 1993 in Charasiab, a village located 25 kilometres from Kabul.

12. However, the leaders of the Afghan National Liberation Front (ANLF) and the National Islamic Front of Afghanistan (NIFA) did not sign a document containing a number of the decisions taken because they alleged that it violated human rights by imposing the veil on women. On 19 May, the party leaders decided that posts and privileges awarded during the communist regime would be revoked. Numerous persons who did not occupy high-ranking positions in the previous Government and were not accused of committing crimes kept their jobs in the current administrative apparatus, both in Kabul and in the provinces.

13. The "Division of Powers" contained in the Afghan Peace Accord which was adopted in Islamabad in March 1993 set out in detail the powers of the President and the Prime Minister and stipulated that the Prime Minister would form the Cabinet, which would work on the principle of collective responsibility. Differences would be resolved through discussion. However, despite the formation of this Islamic Government, the rivalry between the groups loyal to the President and the Prime Minister was so strong that their differences could not be resolved through negotiations. Instead, they have resorted to the use of force on a daily basis. In his report to the General Assembly, the Special Rapporteur indicated in paragraph 27 that the Prime Minister was reportedly unable to enter the capital while the President was unable to leave it beyond a radius of one kilometre, although both separately paid official visits to foreign countries. This situation had not changed at the time of the finalization of the present report.

14. Beginning on 1 January 1994, Kabul has witnessed some of the heaviest fighting that has ever taken place in that city, in the context of the power struggle between the forces loyal to the President, Mr. Rabbani, and those allied with the Prime Minister, Mr. Hekmatyar. A new political and military alliance called the Supreme Coordination Council of the Islamic Revolution of Afghanistan (SCCIRA) was established by the Hezbe Islami party led by Mr. Hekmatyar; the Jumbish (National Islamic) Movement which is led by General Abdul Rashid Dostom, a former Uzbek militia leader who first used to be an ally of former President Najibullah and subsequently of the former Minister for Defence, Mr. Ahmad Shah Massoud; the Afghan National Liberation Front led by the former President of Afghanistan, Mr. Sibghatullah Mojjadidi; Mr. Mahmoud Baryalai, the brother of Mr. Babrak Karmal who was President of Afghanistan during the previous regime, and a number of other groups. The SCCIRA called for the resignation of President Rabbani whose forces had formed an alliance with the Shurae Nazar (the Supervisory Council of the North) which is led by the former Minister for Defence, Mr. Massoud.

15. It has been reported that President Rabbani has described the conflict as a jihad (holy war) against communist forces and their allies. The Hezbe Islami (Khalis) and Harakat Inqilab Islami political parties remained neutral but condemned the role of the communists in the present fighting. The NIFA (Pir Gailani) party called for a cease-fire, a peaceful dialogue and a broad-based emergency gathering under the supervision of the United Nations and the Organization of Islamic Conference. Hence, the ongoing power struggle has brought no new figures to the Afghan political scene but has resulted in the creation of new alliances. The changes in alliances, at times with ethnic overtones resulting from the power struggle have given rise to further uncertainty as to who belongs to which political formation not only among the population but also among the observers of the Afghan political scene. The new feature of the changes in alliances has therefore rendered the political stability in the country even more precarious. Only one element has remained the same: the principal victim of the power struggle is the civilian population.

B. Human rights problems in the light of the current political situation in the country

The situation in Kabul

16. In his report to the General Assembly, the Special Rapporteur spoke about the massive indiscriminate killing in Kabul caused by rocket attacks and air attacks in which cluster bombs were used. The armed conflict which has been raging in Kabul since 1 January 1994 is nevertheless unprecedented in scope and intensity, once again causing heavy loss of life and damage to property. The city has been subjected to indiscriminate rocketing and shelling by heavy artillery. A new and very disquieting feature of the current conflict has been the use of aerial bombardment of residential areas of Kabul, with highways reportedly being used as runways for the fighter jets.

17. In addition to the neighbourhoods affected during previous conflicts in Kabul, new neighbourhoods such as the area of the presidential palace, Wazir Akhbar Khan and Microrayon, which had not been affected in an extensive manner during previous outbreaks of violence, are reported to have suffered heavy damage and destruction while the Shahrinau area, in which most of the United Nations premises are located is said to be almost completely deserted. On 4 January 1994, the United Nations Staff House located in that neighbourhood was hit by a rocket which caused serious damage. The targeting of hospitals and medical facilities has also continued in this round of fighting. The Special Rapporteur was informed that one of the most important monuments of the Afghan cultural and religious heritage, the Puli Keshti mosque which is located in the centre of Kabul, had received several direct artillery hits and was reportedly destroyed. In addition, the money market located in the Saray Shah Zada area of the city, which the Special Rapporteur visited in September 1993, was reportedly looted and set on fire.

18. The Special Rapporteur was informed that the rocketing and shelling in Kabul which has been taking place since 1 January 1994 had begun at dawn, while the population was still asleep, and that looting by the various groups involved in the conflict began immediately thereafter. According to one report, the militiamen under the command of General Dostom are reported to have started the hostilities. Persons who managed to leave the city reportedly told human rights organizations that the violence of the rocket and artillery attacks was such that they did not have the time to bury the members of their families who had been killed but simply left their bodies in the house, locked the doors and left. Thousands of families are reported to have been seen fleeing from the areas of heaviest fighting to seek refuge in safer places.

19. On 4 January 1994, the United Nations Secretary-General issued a statement in which he regretted the renewed outbreak of violence in Kabul and appealed to all groups to cease hostilities.

20. Unfortunately, the fighting continued unabated. Following an appeal issued by the Government of Pakistan which was endorsed by the United Nations, a 24-hour cease-fire was observed in Kabul on 8 January 1994 between the warring sides. It permitted the evacuation of remaining United Nations international staff and a number of diplomats and allowed a number of the city's inhabitants to leave. However, the fighting resumed immediately,

causing additional loss of life, displacement among the population and destruction of property. Closely following the events in Afghanistan, the Special Rapporteur issued a statement on 11 January in which he condemned the armed hostilities and appealed to all parties to respect human rights.

21. Since the armed conflict went on unabated, the Secretary-General issued a second statement on 12 January 1994 in which he deplored the continued fighting in Afghanistan and stated his intention to send a special mission to that country as soon as suitable conditions existed, in accordance with General Assembly resolution 48/208. On 11 February, the Secretary-General announced the appointment of Mr. Mahmoud Mestiri (Tunisia) to lead the special mission and that Mr. Sotirios Mousouris, the Personal Representative of the Secretary-General in Afghanistan and Pakistan, will be part of the mission.

22. Heavy fighting in Kabul continued and more civilian casualties and destruction of property were reported. Large numbers of people continued to be uprooted from their homes and forced to seek refuge in safer areas of Kabul, mostly towards the east but also towards the north and south. In the light of the prevailing situation, the President of the Security Council issued a statement on 24 January 1994.

23. Notwithstanding the aforementioned appeals, fighting in Kabul continued, with aerial bombardments and intensive rocketing taking place even in highly populated residential areas. The Personal Representative of the Secretary-General in Afghanistan and Pakistan issued a statement in this connection on 31 January 1994.

24. Unfortunately, all of the above-mentioned appeals appear to have gone unheeded. In September 1993, the mayor of Kabul informed the Special Rapporteur that, since the Islamic Government came to power in 1992, some 36,000 houses had been partly or fully destroyed and more than 30,000 damaged as a result of armed conflict. It was estimated that some 10,000 persons had been killed during the same period. At the time of the finalization of the present report, at least 900 persons are believed to have been killed in Kabul since 1 January 1994 while more than 10,000 persons have reportedly been wounded. The magnitude of the current round of fighting, which has been described by relief organizations as far worse than the previous ones, has reportedly destroyed a considerable part of the city. Apart from the cease-fire which was observed on 8 January, the only lulls in the fighting were brought about by weather conditions.

25. In addition to the appeals made by the international community to end the fighting and arrive at a negotiated settlement of the conflict, a large number of Afghan field commanders, clergymen, renowned scholars, educators and other prominent personalities are reported to have established a truce body to serve as mediator between the warring sides which is led by Commander Jalaluddin Haqqani, the appointee to the position of Minister of Justice with the current Government. This entity would later become an Islahi Shura (consultative reformatory council). A mediation commission composed of 45 persons from the Kabul area is reported also to have attempted to reconcile the parties involved in the present armed conflict.

The situation in Mazar-i-Sharif

26. The area of Mazar-i-Sharif, the capital of Balkh province in the north of the country which has been under the control of General Abdul Rashid Dostom, had been calm since 1992. In his report to the General Assembly, the Special Rapporteur stated in paragraph 32 that the rivalry between the two parties in conflict (in Kabul) was not necessarily reflected in other parts of the country where their forces are present. However, this pattern did not hold true when heavy fighting broke out in Kabul and Mazar-i-Sharif on 1 January 1994, since the fighting in both cities was mainly taking place between forces loyal to President Rabbani and those supporting the alliance led by General Dostom and Prime Minister Hekmatyar. Clashes between persons loyal to both sides are reported to have already started in December 1993. By the end of the first week of January, the fighting in the city had subsided but the situation remained extremely tense. The Special Rapporteur received news that the office of the World Food Programme (WFP) and the United Nations Staff House in Mazar-i-Sharif were attacked and looted during the fighting. United Nations international staff were relocated to other cities in the region. The WFP warehouse is also said to have been partly looted. Humanitarian organizations indicated that they had encountered numerous problems with the casualties in Mazar-i-Sharif where some 200 persons were wounded and only one of the city's three hospitals was functioning.

The situation in Sarobi and Tagab

27. Fighter jets had already begun to be used in October 1993 when fighting broke out between forces loyal to President Rabbani and those allied to Prime Minister Hekmatyar in the areas of Sarobi and Tagab (Kapisa province), located some 60 kilometres north-east of Kabul. A 10-day cease-fire was observed between 20 and 30 October which allowed for the reopening of the Kabul-Jalalabad road. The fighting intensified again in mid-November.

The situation in Kandahar

28. In paragraph 32 of his report to the General Assembly, the Special Rapporteur indicated that Kandahar province, in south-eastern Afghanistan, was not free from conflict resulting from party rivalries. While some progress was being made towards a broad-based shura (council) in Kandahar after a meeting of the Personal Representative of the Secretary-General with a large number of commanders last December, the outbreak of hostilities in Kabul has provoked a renewal of fighting. A 69-man Reconciliation Shura (council) has been trying to assist the parties in the conflict to reach a political settlement.

The situation in other parts of the country

29. The fighting which began on 1 January 1994 in Kabul is reported to have spread to six other provinces of Afghanistan. In Faryab province in the north-western part of the country, the Governor of Herat province, who is allied with President Rabbani, Mr. Ismail Khan, reportedly attacked the forces of General Dostom, sending fighter jets from the Shindad base to Shebergan. The situation in Herat is tense but has remained peaceful.

II. THE PROBLEM OF REFUGEES AND DISPLACED PERSONS

30. As the United Nations High Commissioner for Refugees stated before the Commission on Human Rights at its fiftieth session, "Most of the refugees and internally displaced persons are victims of the twin scourges of human rights abuses and internal conflict ...". This phrase, unfortunately, applies fully to the present situation in Afghanistan.

31. The armed conflict around Kabul already had a negative impact on the scale of repatriation of refugees, which had declined dramatically in 1993 when only 358,763 persons returned from Pakistan and 344,416 persons returned from the Islamic Republic of Iran since the inception of the repatriation programme in that country on 1 December 1992. Approximately 96,000 additional refugees had come to Pakistan since April 1992, mostly from urban areas and principally as a result of the turmoil in Kabul. Therefore, some 4 million Afghan refugees continued to live in Pakistan and the Islamic Republic of Iran.

32. The current round of fighting in Afghanistan which began on 1 January 1994 has created new refugees and internally displaced persons in addition to those mentioned above. Before the closing by Pakistan of the border crossing at Torkham on 12 January 1994, some 18,000 persons are believed to have fled to the North West Frontier Province of Pakistan. The persons allowed across the border are the wounded, the sick and those in possession of travel documents and visas. An additional 15,000 had reportedly remained for some time in the area near Torkham, either hoping that the border will be reopened or for lack of money to pay the bus fare to the camps for internally displaced persons in Jalalabad. Afghans of Hindu and Sikh origin wishing to seek refuge in India are reportedly not allowed to transit through Pakistan without previously obtaining a visa for India which was difficult to get in view of the fact that there is no Indian consulate in Jalalabad. In the context of the current fighting, the United Nations High Commissioner for Refugees issued a statement to the Ministers for Foreign Affairs of the countries of the Economic Cooperation Organization meeting in Tehran, appealing to them to continue to protect and assist those refugees who were temporarily in their care pending solutions to their problems and to admit those who were in need of protection.

33. At the time of the finalization of the present report, some 80,000 persons had come from Kabul to the displaced persons camps in Jalalabad, arriving at an average rate of 250 families, i.e. some 1,700 persons per day. Given the sharp increase in bus fares from Kabul, numerous persons are reported to have made at least part of the journey, which includes the crossing of rivers, on foot. There are currently four camps for internally displaced persons in and around Jalalabad: the Mumtaz and Hada camps, which have existed for some time and which were visited by the Special Rapporteur on two occasions, and the recently built Samarkhel (which is run by the ICRC) and Sar Shahi camps located some 15 kilometres and 18 kilometres from the city respectively. In addition to the new arrivals, some 4,000 families who fled the previous rounds of fighting in Kabul as well as the armed conflicts in Tagab and Sarobi had also sought refuge in the Jalalabad camps. Persons from Tagab are mainly living in the Samarkhel camp while new arrivals from Kabul have gone to the three other ones, and in particular to Sar Shahi. Their most pressing needs are food, medicine and

tents. Unlike the persons who left Kabul in 1992 and 1993, who included urban professionals, former government officials, professors and other intellectuals, those fleeing the city now are persons who were previously unable to leave for economic reasons and who have no other choice if they want to remain alive. In addition to camps, they have often taken refuge in the homes of fellow villagers or tribesmen and even with unknown people. It has been estimated that more than 175,000 persons have left Kabul as refugees or displaced persons since 1 January 1994. It is estimated that some 50,000 among them have returned to their home villages.

34. In addition to Jalalabad, persons have fled from Kabul to other parts of the country as well. Some 75,000 persons are believed to have gone to other provinces, in particular Laghman, the area of Khost in Paktia province and to the Mohammad Aga area in Logar province. A number of persons have gone to the displaced persons camps in the north of the country although passage to certain parts of the north has been rendered difficult because of meteorological condition resulting in the closure of the Salang pass. The camps in the north are located in the city of Mazar-i-Sharif, the capital of Balk province, in Kamaz, which is in the Mazar area, in Puli Khumri, Hairatan, and in Shebergan. Some 300 families from Kabul are believed to have arrived in Mazar-i-Sharif. At the time of the finalization of the present report, 260 new families had arrived at the Kamaz camp while 500 new families arrived to the camp for displaced persons at Puli Khumri. Some 100,000 displaced persons who had fled earlier fighting in Kabul were already living in Balkh province, 20,000 of whom were in camps while the rest were accommodated in public buildings. In addition, the authorities in Kandahar province in the southern part of the country have reported the arrival of approximately 400 displaced families from Kabul. A number of persons are believed to have been on the roads leading from Jalalabad to Kandahar and the southern provinces towards which access was restricted. The residents of Kabul who have fled the city to stay with families or seek shelter with local communities have placed additional burdens on the already overstretched or non-existent local services.

35. It has been reported that persons have also been displaced internally from Faryab to Badghis province as a result of current heavy fighting between the forces of General Dostom and the Governor of Herat, Mr. Ismail Khan.

36. Numerous citizens of Kabul have been displaced within Kabul since aerial bombardments and intensive rocketing were experienced even in highly populated residential areas. Thousands of families have left the areas of heaviest fighting to seek refuge in safer places. It is believed that approximately 300,000 persons moved to the northern parts of the city such as the Khair Kana neighbourhood which subsequently came under very heavy artillery fire on 22 January 1994, thus giving rise to a new movement of the population within the city. Some 250,000 persons are currently believed to be displaced in Kabul and its immediate environs. Persons have gone to the houses of relatives and friends or fellow villagers and tribesmen. The fact that 23 persons were reportedly injured when one shell fell on a single house provides a good illustration of their crowded living conditions. Those who have had nowhere to go have sought refuge in public buildings such as schools and mosques. The ICRC and the Afghan Red Crescent Society are assisting some 50,000 persons who have found themselves in this situation throughout the city. Even they are obliged to change locations all the time, as fighting

comes to their neighbourhood. The tragic situation in which the civilian population of Afghanistan finds itself and the indiscriminate and unrelenting rocketing, shelling and aerial bombardment of Kabul have prompted the ICRC to issue a press release in February 1994 appealing to the parties in the conflict to take all necessary measures to spare the civilian population as well as medical institutions and personnel. In addition, the press release states that the situation of the Afghan population, which is already one of the poorest in the world, is further aggravated by cold weather and the lack of electricity and basic goods.

37. The dispersal of Afghanistan's population in this manner brings to mind the term "migratory genocide" which historian Louis Dupree used to describe some of the population movements in that country.

38. During the period under consideration, the head of the Council of Understanding and National Unity, an organization of Afghan intellectuals seeking peace in Afghanistan, Mr. Wali Khan Karokhel, whom the Special Rapporteur met in September 1993, was killed in December 1993. His assassination is believed to have been politically motivated. Other prominent Afghan intellectuals and members of Afghan human rights organizations living in Pakistan have also received death threats. It would appear that intellectuals are currently at greater risk than persons who were associated with the former Government.

III. THE INTERNATIONAL COMMUNITY AND HUMAN RIGHTS IN AFGHANISTAN

39. The role of the international community has gained particular importance since the last round of fighting in Afghanistan broke out on 1 January 1994. The United Nations dispatched the first convoy of humanitarian relief for the displaced persons fleeing Kabul to Jalalabad on 3 January 1994. The Coordinator for Humanitarian Assistance for Afghanistan established a task force for the displaced. The responsibilities of the United Nations agencies were divided as follows: WHO would be responsible for relief relating to health, UNHCR would be responsible for camp management, WFP for food and logistics, UNICEF for water, sanitation and education, while UNOCHA would be responsible for the overall coordination of relief operations.

40. Owing to the intensity of the fighting, it was not possible to dispatch aid convoys to Kabul. Nevertheless, stocks of WHO medical supplies and of WFP wheat and other food commodities which were already available in the city were handed over to the ICRC for distribution among the needy population. Available stocks of goods in Kabul and Mazar-i-Sharif were distributed by United Nations national staff and the ICRC. Deliveries to Puli Khumri had to be halted owing to insecurity on the road. Mixed food commodities were also distributed in Kabul by CARE International. Emergency stocks were positioned as close as possible to Kabul for quick distribution when the security situation allowed. At the beginning of February, a convoy with WHO medical supplies and UNHCR blankets reached Kabul for distribution by the ICRC. UNICEF distributed essential drugs and diesel fuel to medical institutions.

41. The Special Rapporteur was informed that the area of Kandahar had not been accessible for any international humanitarian actions for some time. Nevertheless, at the beginning of February 1994, local authorities in Kandahar city distributed quilts, blankets, tarpaulins, kerosene stoves, plastic buckets and jerry-cans belonging to UNHCR to some 50 displaced families from Kabul. At the same time, UNHCR was assisting 15 families living in public buildings in the same city. International relief organizations also encountered difficulties regarding access to Kunduz province.

42. At the time of the finalization of the present report, United Nations agencies had distributed, 1,200 tonnes of food (WFP, ICRC, UNICEF), 450 tents and 3,000 rolls of plastic sheeting (UNCHS), 15,000 blankets (UNHCR, through ICRC), 900 blankets/sheets UNICEF, 8 surgical/medical units in Kabul since 1 January 1994. During the same period, 1,873 tonnes of food, 120,000 litres of fuel, 5,975 tents, 5,100 tarpaulins, 47,000 blankets and approximately 140 tonnes of medicines were delivered by United Nations agencies to Jalalabad.

43. The International Committee of the Red Cross has played a vital role during the present armed conflict in Afghanistan, maintaining a continuous presence of international staff in both Kabul and Mazar-i-Sharif. Besides its customary work in the medical and health fields, the ICRC has distributed its own emergency humanitarian relief supplies as well as those provided by United Nations agencies and is assisting some 50,000 persons displaced within Kabul who had taken refuge in public buildings. It has also been running the Samarkhel camp for displaced persons in Jalalabad and assisting the

United Nations agencies in alleviating the plight of both displaced persons and the local population throughout Afghanistan. The Special Rapporteur was informed that the ICRC was assisting in Mazar-i-Sharif 300 families which ha fled the ongoing fighting in Kabul. The ICRC is currently assisting 23 medical facilities in the city on an ad hoc basis by providing emergency medical supplies; this assistance includes all the functioning hospitals.

IV. OTHER HUMAN RIGHTS ISSUES

44. Although Afghanistan is a party to various international human rights instruments, in particular the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as well as to the Geneva Conventions of 12 August 1949, there is still no administration which could be able to guarantee human rights as enshrined in the above-mentioned instruments. The adherence of a Government to international human rights instruments has no practical value in such a situation. The country is still without a valid constitution and the relevant accords have not been implemented.

45. In addition to the lack of a functioning and effective central Government, army and police, the Special Rapporteur has also mentioned the existence of prisons run by some political parties and field commanders in areas under their control, mostly at undisclosed locations. He expressed the opinion that the existence of private prisons is incompatible with an effective government and that they must be abolished. In paragraph 11 of resolution 48/152, the General Assembly urged the unconditional release of all prisoners detained without trial on the Afghan territory by rival groups, and called for the abolition of prisons run by political parties.

V. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

46. In the present situation, the Special Rapporteur has the impression that Afghanistan is a country in which the power struggle creates more of an equilibrium of anarchy than an equilibrium of people's government.

47. The conclusions which the Special Rapporteur presented in his report to the General Assembly (A/48/584, paras. 102-127) are still valid.

48. The power struggle between political groups that may be considered as being bound by the Islamabad and Jalalabad accords has resumed since 1 January 1994 and has reached new dimensions. Well-known political figures have formed new alliances with the aim of keeping or gaining political power regardless of the suffering of the people, in particular the population of Kabul. Reliable reports are available concerning the scope and intensity of the fighting. Since 1 January 1994, more than 900 civilians are reported to have been killed, more than 10,000 have been wounded, approximately 18,000 refugees have fled to Pakistan, 155,000 persons are internally displaced throughout the country, while some 250,000 persons are displaced within Kabul and its immediate environs. Areas in Kabul which had been spared up to January 1994 have been more or less completely destroyed. Housing, public buildings as well as religious and cultural monuments have been razed. It has been reported that for the first time during the civil war in Afghanistan aerial bombardment has been carried out systematically in areas populated by civilians.

49. There are currently approximately 80,000 persons who have fled the fighting in Kabul to the camps for internally displaced persons in the area of Jalalabad, in Nangarhar province, while 75,000 persons are displaced in the rest of Afghanistan. The new arrivals place additional burdens on the already overstretched or non-existent local services and on those providing humanitarian assistance to Afghanistan.

50. The Special Rapporteur spoke before the General Assembly about his fear that the conflict in Kabul could spread to other cities and areas of Afghanistan. This fear has now materialized: signs of potential outbreak of civil war may be observed in the northern part of the country as well as in Kandahar and Nangarhar provinces. The conflict may spread further to the whole region. Neighbouring countries have offered their good offices to resolve the conflict.

51. It is therefore quite understandable that the human rights situation in the country is far from being in conformity with international human rights instruments to which Afghanistan is a party.

52. The request of the Special Rapporteur, voiced before the General Assembly, that his report be translated into two of the principal languages spoken locally is being implemented. The translation of the reports into Dari and Pashtu has almost been completed. Ways and means must be found to distribute the translations of the report on the widest possible basis among the interested population in Afghanistan.

53. In resolution 48/208, the General Assembly requested the Secretary-General to dispatch a special mission to Afghanistan; this has not yet taken place. The Special Rapporteur is of the opinion that without a stable cease-fire in the country and without the guarantee of unhindered mobility on roads and in the Afghan air space, as well as safe access to airports, systematic action with a view to arriving at a peaceful settlement of the present situation is not possible.

54. The whole situation in Afghanistan shows that the different tribal and other areas which are under the control of powerful personalities have developed a new identity which endangers the unity of the country and which threatens the security, peace and stability of the whole region. It would appear that separate foreign policies are being pursued in different parts of Afghanistan. The only way to counter these separatist trends would be a new federal or regional arrangement concerning the system of government, which nevertheless presupposes an end to the armed conflict.

B. Recommendations

55. Since the situation of human rights in Afghanistan is so closely linked with the overall political situation in the country, it is useless to make any recommendation regarding the restoration of human rights in the country as long as political forces are unable to solve their political differences other than by military means and when appeals to that effect are not respected.

56. The only recommendation would be that all groups should disarm and stop the war. Similar recommendations have been made by all who have discussed the Afghan problem openly. However, all such appeals require international solidarity if they are to be implemented. Regrettably, this solidarity does not exist. On the contrary, both Afghanistan and its people seem to have been forgotten by the international community. The Special Rapporteur would therefore recommend that all the political leaders and other eminent Afghans from inside and outside Afghanistan be invited to gather in a neutral location and take the steps that would be conducive to peace, namely a plan for the holding of free elections which should be elaborated and then implemented.

57. All political groups should release their prisoners and agree to visits of their prisons by the International Committee of the Red Cross and the Special Rapporteur.

58. Humanitarian assistance should continue to be provided and delivered under international supervision. However, such efforts will not succeed without the necessary financial backing which seems to be lacking at present. Particularly vulnerable groups should be given priority attention in this regard. The Special Rapporteur recommends that the fate of women and girls should be examined with particular care.

59. An appeal should be made to humanitarian organizations to elaborate a plan for the reconstruction of the country and they should be requested to inform the United Nations about how they think that peace and reconstruction can be achieved in Afghanistan.

60. The Special Rapporteur would also like to repeat the recommendations made in his report to the General Assembly at its forty-eighth session (A/48/584, paras. 128-142).

61. The only recommendation of the Special Rapporteur which has really been fulfilled with the help of the Afghan people, was the end of the foreign occupation. All the other conclusions and recommendations are, in reality, still valid. The United Nations has an obligation to reinvigorate its efforts to implement at least the conclusions and recommendations which are contained in the resolutions of the Commission on Human Rights and the General Assembly.

62. As long as the international community does not show a commitment to carrying out the conclusions and recommendations contained in different resolutions and reports, they will remain, cynically, a dead letter and the suffering people of Afghanistan will justly ask the world organization and the international community about the value of the words in the reports of the Special Rapporteur and the value of humanitarian assistance which is not able to solve the main problems in the present situation of the people of Afghanistan.

63. At this point in time, food, medicines, shelter and particularly physical safety are the primary concerns for the majority of the population of Afghanistan. Another major issue requiring firm action by the international community is the problem of the weapons supplied to the warring factions. Decisive action will have to be taken to reduce the disastrous effects of the use of highly sophisticated weaponry on the civilian population.

64. International observers should be deployed along the highway between Jalalabad and Kabul in order to monitor and facilitate the passage of humanitarian convoys, which are reported to have been blocked on this highway as a result of the fighting.